

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION

Case No. 17-md-2804

Judge Dan Aaron

This document relates to: Polster

The County of Cuyahoga v. Purdue  
Pharma L.P., et al.  
Case No. 18-OP-45090

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Videotaped deposition of  
THOMAS GILSON, M.D.

30(b)(6)

January 14, 2019

9:07 a.m.

Taken at:

Climaco, Wilcox, Peca & Garofoli  
55 Public Square, Suite 1950  
Cleveland, Ohio

Renee L. Pellegrino, RPR, CLR

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:  2 On behalf of Cuyahoga County:  Napoli Shkolnik PLLC  3 SALVATORE BADALA, ESQ.  360 Lexington Avenue  4 New York, New York 10017  (844) 230-7676  5 sbadala@napolilaw.com  - and -  6 Plevin &amp; Gallucci  FRANK GALLUCCI, ESQ.  7 55 Public Square  Suite 2222  8 Cleveland, Ohio 44113-1901  (216) 861-0804  9 fgallucci@pglawyer.com  10 On behalf the City of Cleveland:  Zashin &amp; Rich  11 AMI J. PATEL, ESQ.  950 Main Avenue, Fourth Floor  12 Cleveland, Ohio 44113  (216) 696-4441  13 ajp@zrlaw.com  14 On behalf of Walmart, Inc.:  Jones Day  15 EDWARD M. CARTER, ESQ.  BRANDY H. RANJAN, ESQ.  16 325 John H. McConnell Boulevard  Suite 600  17 Columbus, Ohio 43215-2673  (614) 469-3939  18 ecarter@jonesday.com  branjana@jonesday.com  19 On behalf of McKesson Corporation:  20 Covington &amp; Burling LLP  ASEEM PADUKONE, ESQ.  21 One Front Street  San Francisco, California 94111-5356  22 (415) 591-6000  apadukone@cov.com  23  24 ~ ~ ~ ~  25</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES, CONT'D:  2 On behalf of Teva Pharmaceuticals:  (Via Telephone)  3 Morgan, Lewis &amp; Bockius LLP  ALYSE FISCHER, ESQ.  4 77 West Wacker Drive  Chicago, Illinois 60601-5094  5 (312) 324-1107  alyse.fischer@morganlewis.com  6  On behalf of Discount Drug Mart:  7 (Via Telephone)  Cavitch Familo &amp; Durkin  8 CHIP ERB, ESQ.  1300 East Ninth Street, 20th Floor  9 Cleveland, Ohio 44114  (216) 621-7860  10 lwerb@cavitch.com  11 On behalf of H.D. Smith:  (Via Telephone)  12 Barnes &amp; Thornburg  WILLIAM PADGETT, ESQ.  13 11 South Meridian Street  Indianapolis, Indiana 46204-3535  14 (317) 231-7353  william.padgett@btlaw.com  15  On behalf of Endo Pharmaceuticals, Inc., Endo  16 Health Solutions, Inc., Par Pharmaceuticals,  Inc. and Par Pharmaceutical Companies, Inc.:  17 Baker &amp; Hostetler  RUTH HARTMAN, ESQ.  18 127 Public Square, Suite 2000  Cleveland, Ohio 44114-1214  19 (216) 621-0200  rhartman@bakerlaw.com  20  21 ~ ~ ~ ~  22  23  24  25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES, CONT'D:  2 On behalf of AmerisourceBergen Drug Corporation:  Reed Smith LLP  3 STEVEN J. BORANIAN, ESQ.  LUKE PORTER, ESQ. (Via Telephone and Veritext  4 Virtual Stream)  101 Second Street  5 Suite 1800  San Francisco, California 94105  6 (415) 659-5980  sboranian@reedsmith.com  lporter@reedsmith.com  7 - and -  8 Jackson Kelly PLLC  SANDRA K. ZERRUSEN, ESQ.  9 50 South Main Street  Suite 201  10 Akron, Ohio 44308  (330) 252-9060  11 skzerussen@jacksonkelly.com  12 On behalf of Purdue Pharma, L.P.:  Dechert LLP  13 MARK S. CHEFFO, ESQ.  Three Bryant Park, 1095 Avenue of the Americas  14 New York, New York 10036-6796  (212) 698-3814  15 mark.cheffo@dechert.com  - and -  16 Dechert LLP  SARA D. ROITMAN, ESQ.  17 35 West Wacker Drive  Suite 3400  18 Chicago, Illinois 20005  (312) 646-5857  19 sara.roitman@wc.com  20 On behalf of Cardinal Health:  (Via Telephone)  21 Williams &amp; Connolly LLP  J. ANDREW KEYES, ESQ.  22 725 Twelfth Street NW  Washington, D.C. 20005  23 (202) 434-5584  akeyes@wc.com  24  25 ~ ~ ~ ~</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES, CONT'D:  2 On behalf of Johnson &amp; Johnson and Janssen  Pharmaceuticals, Inc.:  3 Tucker Ellis LLP  ERICA M. JAMES, ESQ.  4 950 Main Avenue, Suite 1100  Cleveland, Ohio 44113-7213  5 (216) 592-5000  erica.james@tuckerellis.com  6  7 ALSO PRESENT: Shaun Crum, Videographer  8  9 ~ ~ ~ ~  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>

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<p style="text-align: right;">Page 18</p> <p>1 THE VIDEOGRAPHER: The date is  2 January 14th, 2019. We are on the record at  3 9:07 a.m. This is the deposition of Thomas  4 Gilson in the matter of In Re: National  5 Prescription Opiate Litigation, in the United  6 States District Court, Northern District of  7 Ohio, Eastern Division.  8 Will counsel please state  9 appearances for the record?  10 MR. BADALA: Salvatore Badala for  11 the Plaintiff, Cuyahoga County.  12 MR. GALLUCCI: Frank Gallucci for  13 Plaintiff, Cuyahoga County.  14 MS. PATEL: Ami Patel, for  15 Plaintiff, City of Cleveland.  16 MS. JAMES: Erica James, Tucker  17 Ellis, for Janssen Pharmaceuticals and Johnson &amp;  18 Johnson.  19 MR. PADUKONE: Aseem Padukone,  20 Covington &amp; Burling, on behalf of McKesson  21 Corporation.  22 MS. HARTMAN: Ruth Hartman, Baker  23 Hostetler, on behalf of the Endo Defendants.  24 MS. RANJAN: Brandy Ranjan from  25 Jones Day on behalf of Walmart.</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. BADALA: I'm sorry. Before you  2 do that, is Ms. Rendon on the phone? I assume  3 not. We just have a standing objection to  4 Ms. Rendon's participation in this matter and  5 Baker Hostetler as well.  6 MS. HARTMAN: Just so you know, Endo  7 Defendants want their client to have counsel  8 here and we know your objection but we're here.  9 MR. BADALA: That's fine.  10 THOMAS GILSON, M.D., of lawful  11 age, called for examination, as provided by  12 the Federal Rules of Civil Procedure, being  13 by me first duly sworn, as hereinafter  14 certified, deposed and said as follows:  15 EXAMINATION OF THOMAS GILSON, M.D.  16 BY MR. CHEFFO:  17 Q. Good morning, Doctor.  18 You understand you're under oath  19 today?  20 A. Yes, I do.  21 Q. You've been deposed before?  22 A. Yes, I have.  23 Q. And you understand that you've been  24 designated today as what we call a 30(b)(6) or a  25 corporate designee?</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. CARTER: Ed Carter for Walmart.  2 MS. ZERRUSEN: Sandy Zerrusen,  3 Jackson Kelly, on behalf of AmerisourceBergen.  4 MR. BORANIAN: Steven Boranian from  5 Reed Smith for Defendant AmerisourceBergen.  6 MS. ROITMAN: Sara Roitman from  7 Dechert on behalf of Purdue.  8 MR. CHEFFO: Mark Cheffo, also from  9 Dechert, for Purdue.  10 THE VIDEOGRAPHER: Will counsel on  11 the phone please state appearances for the  12 record?  13 MR. PADGETT: Bill Padgett on behalf  14 of Defendant H.D. Smith.  15 MR. KEYES: Andrew Keyes on behalf  16 of Cardinal Health.  17 MS. FISCHER: Alyse Fischer, Morgan  18 Lewis, on behalf of the Teva Defendants.  19 MR. PORTER: Luke Porter with Reed  20 Smith on behalf of AmerisourceBergen.  21 MR. ERB: Chip Erb of Cavitch on  22 behalf of Discount Drug Mart.  23 MR. CHEFFO: Anybody else?  24 THE VIDEOGRAPHER: Will the court  25 reporter please swear in the witness?</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes, I do.  2 Q. And you understand that that means  3 that you're testifying on behalf of the county?  4 A. Cuyahoga County, yes, I do.  5 Q. Great. Thank you.  6 Would you be good enough to tell us  7 what you did in connection with your preparation  8 today? And I don't want you to tell me any  9 conversations you had with your lawyers, but you  10 can tell me if you met with lawyers, what you  11 reviewed and what else you may or may not have  12 done.  13 A. I did meet with attorneys today.  14 Pardon me. I met with attorneys prior to today.  15 I reviewed case material in the medical  16 examiner's office. I also reviewed case  17 material with regard to the Division of Child  18 and Family Services. I discussed information  19 with the previous coroner. I also discussed  20 information with other county officials with  21 regard to the impact of the opioid crisis on  22 their agencies. I would say in preparation, in  23 general, we've been dealing with the crisis now  24 for a number of years and I've done a lot of  25 preparation in an indirect way ready for today.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. Well, about how many hours did you 2 spend preparing for the deposition and your 3 topics today? 4 A. All those seven years. 5 Q. Well, you didn't know that you were 6 going to be deposed today seven years ago, did 7 you? 8 A. I hope not. No. 9 Q. When did you first learn that you 10 were going to be a corporate designee in this 11 deposition? 12 A. It was a few months ago. I couldn't 13 give you an exact answer how many hours. 14 Several I can say. 15 Q. Several? 16 A. Several. 17 Q. Like five, ten? 18 A. No. I'd say probably closer to 35 19 to 40. 20 Q. For all the topics? 21 A. For all those topics, yes. 22 Q. And what specific documents did you 23 review from the case materials and the various 24 coroner information on the divisions in 25 connection with your preparing for the</p>	<p style="text-align: right;">Page 24</p> <p>1 did you review everything online? 2 A. More online. I mean, our website is 3 online and I can access things through that. 4 Q. And who else did you talk to in 5 connection with your preparation for the various 6 topics that you're going to testify about today? 7 A. I would have spoken to Dr. Elizabeth 8 Balraj, who was the previous coroner. I spoke 9 to Hugh Shannon, who was the administrator, 10 chief of operations, in my office. I spoke to 11 Tamara Chapman in the Department of Child and 12 Family Services, in addition to David Merriman, 13 who is the director of health and human 14 services. I spoke to Commander Gingell in the 15 Cleveland Police Department in preparation for 16 today. I spoke to Keith Martin, who is in the 17 Drug Enforcement Agency. I also spoke to Derek 18 Siegel, who is the director of the High 19 Intensity Drug Trafficking Area for Ohio. 20 Nobody else is coming to mind. 21 Q. Okay. And you probably know from 22 your experience and you have good lawyers -- I'm 23 sure they've told you as well -- but if during 24 the course of the deposition something pops up 25 into your mind, oh, I remember speaking to him,</p>
<p style="text-align: right;">Page 23</p> <p>1 deposition today? 2 A. I reviewed materials in association 3 with the medical examiner's website, other 4 things that were available from task forces. I 5 also reviewed, as I mentioned, things from the 6 Division of Child and Family Services, medical 7 literature, internet searches. 8 Q. And I guess what I'm trying to just 9 find -- if you can help us out, Doctor, a little 10 more specificity. Did you keep track of 11 anything? Did you make copies of anything you 12 reviewed? 13 A. I did not, no, not specifically. 14 Q. Was there anything that was reviewed 15 that was not publicly available? 16 A. To the best of my knowledge, 17 everything that I reviewed was publicly 18 available. 19 Q. Were they things that you reviewed 20 of your own volition or were they anything that 21 was provided to you? 22 A. Primarily things of my own volition. 23 I don't think anything was provided to me 24 separately. 25 Q. And did you print anything out or</p>	<p style="text-align: right;">Page 25</p> <p>1 it's perfectly appropriate for you to amend your 2 response and let us know if that does happen. 3 A. Sure. 4 Oh, I'm sorry. I can add two 5 people. I spoke to Vince Caraffi, who was the 6 injury prevention program head at the Board of 7 Health in Cuyahoga County and he was also the 8 head of the opiate task force for the County 9 Board of Health. And I also spoke to Dr. Joan 10 Papp, who is an emergency room physician at your 11 county hospital, MetroHealth Medical Center. 12 She is also the medical director of Project 13 DAWN, our Deaths Avoided With Naloxone program. 14 Q. Project -- 15 A. DAWN. 16 Q. -- DAWN. 17 Did you take any notes during these 18 interviews or conversations? 19 A. Nothing I retained. 20 Q. Well, did you take notes during the 21 time? 22 A. I might have scribbled things on 23 pads, but I don't have them now. 24 Q. Where are they? 25 A. I threw them away.</p>



<p style="text-align: right;">Page 26</p> <p>1 Q. You weren't asked to retain those?</p> <p>2 A. Nobody asked me to retain them, no.</p> <p>3 Q. Why would you throw them away?</p> <p>4 A. They are just really things to</p> <p>5 refresh my memory, but once I had gotten things</p> <p>6 in my head, I didn't feel I needed them anymore.</p> <p>7 Q. And you're certain that all of your</p> <p>8 notes are -- have been destroyed?</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 A. I don't know where they would be. I</p> <p>11 mean, if they're in the Cleveland trash dump</p> <p>12 somewhere I guess, but I don't have access to</p> <p>13 them anymore.</p> <p>14 Q. And you took notes during each of</p> <p>15 these calls?</p> <p>16 A. I took notes I recall when I was</p> <p>17 talking to the folks at the Division of Child</p> <p>18 and Family Services, Mr. Caraffi and Dr. Papp.</p> <p>19 They're the only ones I remember taking notes</p> <p>20 with.</p> <p>21 Q. Did you bring any documents with you</p> <p>22 today?</p> <p>23 A. I brought a binder, which was made</p> <p>24 available to me by counsel.</p> <p>25 Q. Do you know what's in it?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Is that a Linda Singer letter?</p> <p>2 A. Linda Singer, that's it.</p> <p>3 Q. Okay. Did I see some handwritten</p> <p>4 notes in the very beginning?</p> <p>5 A. Yes, you did.</p> <p>6 Q. And are those your notes?</p> <p>7 A. These are my notes, yes.</p> <p>8 Q. Okay. Well, we may come back to</p> <p>9 that, but let's -- so other than what you've</p> <p>10 told us, Doctor -- you've spoken to the folks</p> <p>11 that you've identified, you looked at some</p> <p>12 publicly available information, you met with</p> <p>13 your lawyers -- did you do anything else to</p> <p>14 prepare for giving testimony here on behalf of</p> <p>15 Cuyahoga?</p> <p>16 A. No. I think I reviewed my articles</p> <p>17 that I've written on this as well and</p> <p>18 presentations and things like that, but I</p> <p>19 believe those were made available already as</p> <p>20 well.</p> <p>21 - - - - -</p> <p>22 (Thereupon, Gilson Deposition</p> <p>23 Exhibit 1, Third Amended Notice of</p> <p>24 Videotaped 30(b)(6) Deposition of</p> <p>25 the County of Cuyahoga, was marked</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Yes, I do.</p> <p>2 There is a copy of my declaration</p> <p>3 with regard to Carole Rendon. There is a copy</p> <p>4 of the corrected complaint, second amended</p> <p>5 corrected complaint, with a list of the</p> <p>6 Defendants. There is information that was</p> <p>7 generated from my office that was shared with</p> <p>8 counsel already. Our monthly report. This is</p> <p>9 dated from June 1st, 2018. We've done</p> <p>10 subsequent reports, but certainly this was the</p> <p>11 most up to date that was furnished at that time.</p> <p>12 The other ones, if you're interested in</p> <p>13 obtaining them, were -- recent copy are</p> <p>14 available on our website, and that would be</p> <p>15 going up to January of this year. This is a</p> <p>16 copy of the third amended notice of a videotaped</p> <p>17 deposition. And that is in regard to the topics</p> <p>18 for the deposition that I was asked to prepare</p> <p>19 for today. This is an organizational chart for</p> <p>20 Cuyahoga County for my reference. And last is a</p> <p>21 letter to Special Master David R. Cohen, and I</p> <p>22 believe this is a correspondence about the</p> <p>23 interrogatories.</p> <p>24 Q. Is that from Linda Singer?</p> <p>25 A. Pardon me?</p>	<p style="text-align: right;">Page 29</p> <p>1 for purposes of identification.)</p> <p>2 - - - - -</p> <p>3 Q. Okay. So this is what I think you</p> <p>4 probably have already, Doctor. This is just a</p> <p>5 copy of the notice of deposition. So as you</p> <p>6 know, there's a number of topics, and I'm going</p> <p>7 to be covering a number of them, Doctor, and my</p> <p>8 colleagues are going to be covering them. We</p> <p>9 have a limited period of time, so I'm going to</p> <p>10 ask you to do your best to try to answer the</p> <p>11 questions that I ask. Obviously if they're not</p> <p>12 clear, you should let me know if you don't</p> <p>13 understand them, but what we're going to try and</p> <p>14 do, because these are relatively targeted, is</p> <p>15 kind of focus on these specific areas within the</p> <p>16 limited time we have --</p> <p>17 A. Sure.</p> <p>18 Q. -- just to give you a little bit of</p> <p>19 a roadmap.</p> <p>20 I'd also like to maybe just start</p> <p>21 with number -- topic 34. Do you see that? It's</p> <p>22 listed on page 4.</p> <p>23 A. Yes.</p> <p>24 Q. So of the individuals that you</p> <p>25 mentioned, did you speak with any of them</p>



<p style="text-align: right;">Page 30</p> <p>1 specifically with respect to 34?</p> <p>2 A. If I could just take a second to</p> <p>3 refresh myself with the topic. I did speak to</p> <p>4 the individual from the department -- Drug</p> <p>5 Enforcement Agency about ARCOS data.</p> <p>6 Q. Was that someone that you listed</p> <p>7 already or somebody else?</p> <p>8 A. Keith Martin.</p> <p>9 Q. Okay. And how long did you speak to</p> <p>10 Mr. Martin for?</p> <p>11 A. Maybe no more than five minutes.</p> <p>12 Q. Did you do anything else to prepare</p> <p>13 for topic 34?</p> <p>14 A. I discussed it with counsel when we</p> <p>15 were preparing.</p> <p>16 Q. Anything else?</p> <p>17 A. Not that I remember, no.</p> <p>18 Q. So who are the individuals and</p> <p>19 entities other than Defendants, if any, who</p> <p>20 Cuyahoga County believes caused or contributed</p> <p>21 to the opioid crisis in Cuyahoga County?</p> <p>22 A. Cuyahoga County believes that the</p> <p>23 opioid crisis in our county is directly</p> <p>24 responsible to the Defendants and does not</p> <p>25 mention any others.</p>	<p style="text-align: right;">Page 32</p> <p>1 of Cuyahoga, if you could tell me any</p> <p>2 individuals or entities, other than the</p> <p>3 Defendants, that Cuyahoga County believes caused</p> <p>4 or contributed to --</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 Asked and answered.</p> <p>7 A. Cuyahoga County does not identify</p> <p>8 any additional individuals other than the</p> <p>9 Defendants who caused the opioid epidemic in the</p> <p>10 county.</p> <p>11 Q. What about contributed to?</p> <p>12 A. Again, referable back to the</p> <p>13 Defendants, so that we have not named anybody</p> <p>14 separately other than the Defendants.</p> <p>15 Q. Has Cuyahoga County looked at the</p> <p>16 ARCOS data?</p> <p>17 A. Cuyahoga County does not have access</p> <p>18 to the ARCOS data, and as such, we have never</p> <p>19 been able to review it.</p> <p>20 Q. How do you know that Cuyahoga County</p> <p>21 doesn't have access to it?</p> <p>22 A. Based on my discussions with</p> <p>23 Mr. Martin from the Drug Enforcement Agency, who</p> <p>24 oversees the ARCOS data, Cuyahoga County would</p> <p>25 not have access to that data.</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. I think that doesn't answer my</p> <p>2 question.</p> <p>3 A. There are no others.</p> <p>4 Q. So you -- it's Cuyahoga's testimony</p> <p>5 that there are no other individuals or entities</p> <p>6 anywhere in the world other than the Defendants</p> <p>7 who caused or contributed to the opioid crisis?</p> <p>8 Is that your testimony?</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 A. It's the testimony of Cuyahoga</p> <p>11 County that there are other individuals involved</p> <p>12 but their responsibility is ultimately referable</p> <p>13 back to the Defendants.</p> <p>14 Q. And that's not answering my</p> <p>15 question, Doctor.</p> <p>16 You spoke with --</p> <p>17 A. I'm sorry. I'm trying the best I</p> <p>18 can.</p> <p>19 Q. Okay. One of the topics was to</p> <p>20 identify the entities and individuals, other</p> <p>21 than Defendants, who Cuyahoga County, as a</p> <p>22 non-expert, believes caused or contributed to</p> <p>23 the opioid crisis in the Cuyahoga geographic</p> <p>24 entity -- area. Excuse me. And I'm just trying</p> <p>25 to understand, as you sit here today on behalf</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. That includes currently today?</p> <p>2 A. As of today.</p> <p>3 Q. And if you had access, would you</p> <p>4 look at it?</p> <p>5 A. As it was relevant to the opioid</p> <p>6 crisis, it certainly would have been something</p> <p>7 we would have considered looking at, sure.</p> <p>8 Q. If you had access to it for the last</p> <p>9 three or four months, it's certainly something</p> <p>10 important to Cuyahoga County to look at, right?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 A. I think it's relevant in terms of --</p> <p>13 as I understand ARCOS data, it's distribution</p> <p>14 of -- quantifications of distributions of drugs</p> <p>15 into Cuyahoga County, and I think that that</p> <p>16 would be something that would be potentially</p> <p>17 relevant to our efforts to address the opioid</p> <p>18 crisis.</p> <p>19 I think, you know, at this point in</p> <p>20 the opioid crisis we're also looking at an</p> <p>21 evolution from the original problem with opioid</p> <p>22 pain relievers to heroin and fentanyl, but I</p> <p>23 think the information from a county standpoint</p> <p>24 would still be potentially helpful.</p> <p>25 Q. And as you understand it, the county</p>

<p style="text-align: right;">Page 34</p> <p>1 hasn't had access and hasn't looked at any of 2 the ARCOS data even to today? 3 MR. BADALA: Objection to form. 4 A. I am not aware of any access the 5 county has to ARCOS data, and based on my 6 discussion with the Drug Enforcement 7 Administration representative with whom I spoke, 8 the county does not have access to ARCOS data. 9 Q. And when did you speak with 10 Mr. Miller -- Mr. Martin? Excuse me. 11 A. I spoke with him on Friday. 12 Q. Just to see if we could just make 13 sure that we're on the same page, Doctor, so 14 it's the county's position that if a doctor 15 prescribed unlawfully a number of prescriptions 16 to patients solely for his or her economic gain, 17 not for any medical purpose, would that have 18 contributed to the opioid crisis? 19 MR. BADALA: Objection to form. 20 A. Yes, it would have. 21 Q. And if a Mexican cartel had shipped 22 illegal synthetic fentanyl into the geographic 23 boundary of Cuyahoga County, would that have 24 contributed to the opioid crisis? 25 A. Yes, it would have.</p>	<p style="text-align: right;">Page 36</p> <p>1 and I think it's still in this way referable 2 back to the Defendants. 3 Q. Well, has anybody -- have you 4 identified any of those, any pill mills, any 5 doctors who engaged in illegal conduct, any drug 6 gang or other drug activity? 7 MR. BADALA: Objection to form. 8 A. The county has. I couldn't, as I 9 sit here today, give you names of those 10 individuals. The pill mill was something that 11 wasn't as prevalent in this area as it was in 12 the southern part of the state, but we were 13 certainly aware of them and there were pain 14 clinics or things like that here. 15 Q. So you're not suggesting that none 16 of that ever happened in Cuyahoga County? 17 A. Oh, no, certainly not. Certainly 18 not. 19 Q. And all of those things contributed 20 to the opioid crisis in Cuyahoga County, 21 correct? 22 A. That would be the county's opinion, 23 yes. 24 Q. And then the question here is, 25 Doctor, identify them. Who are they?</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. And if a -- do you know what a pill 2 mill is? 3 A. In a general sense. 4 Q. If there was a pill mill operating 5 in Cuyahoga County, would that have contributed 6 to the opioid crisis? 7 A. Just so we're on the same page, 8 because it sounded similar to your initial 9 question, I would define a pill mill as an 10 illegal operation with a doctor dispensing drugs 11 without establishing a doctor/patient 12 relationship, essentially for profit, and these 13 were frequently operations that would be cash 14 only, very few questions asked, and I think, you 15 know, they were not reputable in any sense. 16 Q. And that's -- I would adopt that 17 definition, Doctor. 18 A. You can use that one. 19 Q. Okay. So when I talk about a pill 20 mill, I'm talking about kind of people who are 21 doing things for non-medically appropriate uses 22 to essentially create economic gain for 23 themselves at the expense of patients or others. 24 MR. BADALA: Objection to form. 25 A. Yes, that would have contributed,</p>	<p style="text-align: right;">Page 37</p> <p>1 A. I would have to refer to the 2 prosecutor, who's also a witness, in terms of 3 Defendants who were identified and prosecuted. 4 Q. But I thought you just told me that 5 none of those people did cause or contribute, so 6 I'm a little confused. Did they cause or 7 contribute or did they not? 8 MR. BADALA: Objection to form. 9 A. Oh, no. I'm sorry. I said that 10 they -- their actions contributed, but 11 ultimately I think their actions are referable 12 back to the Defendants. 13 Q. Well, that's not my question. My 14 question is if their -- let's start with their 15 actions. You might have a view, a personal view 16 as to whether it's attributable, but what we're 17 trying to find out is the identification of 18 those individuals. Are you prepared to tell us 19 the identification of even one of those improper 20 doctors or pill mills or drug conduct? 21 MR. BADALA: Objection to form. 22 A. The only one I can think of off the 23 top of my head was an organization -- I believe 24 it was called the Northeast Ohio Pain Clinic. 25 Q. So are they one of the individuals</p>

<p style="text-align: right;">Page 38</p> <p>1 or entities that caused or contributed to the 2 opioid crisis? 3 MR. BADALA: Objection to form. 4 A. Again, I think they had a 5 contribution in being an illicit source of 6 opioid pain reliever, sure. 7 Q. And anyone else? 8 A. Again, I have to say I would have to 9 defer to the prosecutor who they identified in 10 prosecutions as overprescribing in their work. 11 We wouldn't have directly investigated some of 12 these things through my agency or many others 13 and the prosecutor would be the best source of 14 information there. 15 Q. I understand, Doctor. As we 16 discussed, you're here testifying on behalf of 17 the county, right? 18 A. That's right. 19 Q. Did you talk to the prosecutor? 20 A. I spoke with James Gutierrez in 21 the -- oh, there's another one. James Gutierrez 22 in the prosecutor's office. 23 Q. Did you ask him to identify any of 24 the people that he prosecuted? 25 A. I did not. I asked him in a general</p>	<p style="text-align: right;">Page 40</p> <p>1 drug addicted in Cuyahoga County ultimately took 2 a prescription opioid medicine? 3 A. No, that would not be Cuyahoga 4 County's position. 5 Q. Okay. Are there people who never 6 had prescription opioids who are addicted? 7 MR. BADALA: Objection to form. 8 A. As far as I know, yes. 9 Q. Can you identify any person or 10 prescription, or can the county, and directly 11 relate it to any alleged improper conduct or 12 omission or misrepresentation by any of the 13 Defendants? 14 MR. BADALA: Objection to form. 15 Outside the scope. 16 A. Could we just reference which topic? 17 Q. It's in the interrogatories, but -- 18 MR. BADALA: Same objection. 19 A. The county identified claims for 20 opiates that were not for cancer patients, were 21 high dose, that is more than 120 medical 22 morphine equivalents, and patients who were 23 diagnosed with a substance use disorder, and 24 patients who, by definition, had been grievously 25 hurt by their prescription. That's in reference</p>
<p style="text-align: right;">Page 39</p> <p>1 way the impact of the opioid crisis on 2 prosecutions. 3 Q. Did you ask anyone, in sum or 4 substance, hey, I have to respond to topic 34 5 and identify entities or individuals, can you 6 give me some of those names? 7 A. As I say, I spoke with the 8 individuals I spoke with, and -- in attempting 9 to identify those individuals and entities, it's 10 the county's position that while there may have 11 been intermediary steps in diversion and those 12 kind of issues, all of the responsibility for 13 the opioid crisis is referable back to the 14 Defendants. 15 Q. Even if a drug cartel shipped in 16 illicit fentanyl from Mexico, that's the 17 responsibility of the Defendants? 18 MR. BADALA: Objection to form. 19 A. Yes, because there would be no need 20 to ship fentanyl to this area if there wasn't a 21 drug-addicted population, and the drug-addicted 22 population is referable back to the opioid pain 23 relievers and the actions of the Defendants. 24 Q. So is it your testimony -- is it 25 Cuyahoga's testimony that every person who is</p>	<p style="text-align: right;">Page 41</p> <p>1 to Exhibit 6 in my folder. 2 Q. And we're going to get to Exhibit 6, 3 but with respect to any of those, can you 4 identify any specific conduct and tie it to any 5 specific prescription or patient? Do you have 6 any of that data or information here today? 7 MR. BADALA: Objection to form. 8 Outside the scope. 9 A. I think this is, again, in reference 10 to the interrogatories that were -- data was 11 provided to counsel, reviewed with experts, and 12 that was made available in response to 13 interrogatories. I don't have that with me 14 beyond that. 15 Q. Not my question, Doctor. 16 With respect to any alleged addicted 17 person -- let's start with that -- do you have 18 any information that their addiction -- can you 19 identify any person -- is relatable to any 20 conduct, action or omission of any Defendant? 21 MR. BADALA: Objection to form. 22 Outside the scope. Asked and answered. 23 A. Sorry. I missed your question. Do 24 I have any information -- 25 Q. As to any person who you believe is</p>

<p style="text-align: right;">Page 42</p> <p>1 addicted in the county, that that addiction was  2 caused by any specific representation, omission  3 or misrepresentation by a Defendant; if so, who  4 and what was the statement or omission.  5 MR. BADALA: Objection to form.  6 Outside the scope. Asked and answered.  7 A. I mean, we have people who are  8 addicted, and going back and looking at their  9 prescription drug monitoring data, had lengthy  10 records there and subsequently went on to die of  11 heroin or fentanyl overdose, and, you know, I  12 think that they're, initially in the first wave  13 of the epidemic, in the heroin phase, that's  14 approximately 80 percent or so of our  15 population, so while I don't think everybody who  16 is addicted to drugs in Cuyahoga County had some  17 antecedent effect or, you know, cause with the  18 opioid pain relievers, a substantial percentage  19 had contact with opioid pain relievers.  20 Q. And you know that how?  21 A. That was based on the review of the  22 Ohio Automated RX Reporting System, which is our  23 prescription drug monitoring program. That was  24 started in 2006 to track prescriptions of  25 controlled substances throughout the State of</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes.  2 Q. Did you talk to anybody else?  3 A. They're coming to me, but I have to  4 say --  5 Q. In connection with 34.  6 A. Not as I remember.  7 Q. And is it your -- let me see if I  8 make sure we're clear on this. Is it the  9 county's testimony that even to the extent that  10 there's any contribution of anybody or entity  11 other than Defendants, ultimately every single  12 one of those instances relates back to the  13 Defendants' conduct? Is that your testimony?  14 A. Which instances are we talking  15 about?  16 Q. Well, I'm talking about 34, right?  17 A. Right. I -- I'm just asking the  18 identification and -- entities of individuals  19 other than the Defendant who contributed or  20 caused? Is that the instances you're talking  21 about?  22 Q. Here's what I'm trying to  23 understand. I want to leave this but I want to  24 make sure that we're on the same page here.  25 A. Yeah. Yeah. Sure.</p>
<p style="text-align: right;">Page 43</p> <p>1 Ohio, and we obtained access to that and  2 retrospectively reviewed our heroin overdoses,  3 2012, '13, actually going forward, and we  4 included our fentanyl overdoses more recently to  5 identify previous prescriptions received by  6 those individuals.  7 Q. Let's go back to 34 for a minute,  8 Doctor. So other than the one -- you named one  9 pill mill. What was that?  10 A. The Northeast Ohio Pain Clinic. I  11 don't remember its exact name, but something  12 like that. We participated in reviewing some  13 records for that.  14 Q. Other than that Northeast Ohio Pain  15 Clinic, can you give the names of any specific  16 individual or entity in response to topic 34?  17 MR. BADALA: Objection to form.  18 A. I cannot give specific names. They  19 are available through the county and I would  20 have to refer to the county prosecutor as a  21 better source of that information.  22 Q. So the prosecutor has them, you're  23 just not prepared to tell me what they are right  24 now?  25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. You've told me you can't identify  2 anybody, but you've also then said there may be  3 some individuals or entities out there that are  4 somehow in the chain, if you will, but their  5 conduct is somehow relatable ultimately to the  6 manufacturers. Did I get that right?  7 MR. BADALA: Objection to form.  8 A. Yes, you did.  9 Q. Okay. And is there anybody out  10 there in the chain whose conduct is not in some  11 way, in the county's view, relatable to any of  12 the Defendants?  13 MR. BADALA: Objection to form.  14 A. I think ultimately the county would  15 say no, there is not anybody out there whose  16 conduct is not referable back to the Defendants.  17 Q. And you're not aware and you can't  18 tell me anybody in the chain, whether they were  19 relatable to the Defendants' conduct or not,  20 right?  21 MR. BADALA: Objection to form.  22 A. Other than the one I mentioned, I  23 can't give you specific names, no.  24 Q. Are you aware of any?  25 A. I know there were prosecutions of</p>



<p style="text-align: right;">Page 46</p> <p>1 doctors who were overprescribing based on my  2 discussion with the prosecutor, but the names of  3 those individuals or entities I do not know.  4 Q. Did some of them go to jail?  5 A. I would hope so, but I don't know  6 for sure.  7 Q. Did they lose their licenses?  8 A. Again, I would hope so, but I don't  9 know the result of that. That isn't something I  10 have access to right now.  11 Q. And you would hope so, I take it,  12 because your understanding of those doctors were  13 that they were engaging in improper conduct that  14 was not in the best interest of their patients,  15 right?  16 MR. BADALA: Objection to form.  17 Outside the scope.  18 A. I would have hoped so because this  19 county is in the midst of a terrible crisis that  20 I think those actions contribute to.  21 Q. "Those actions" meaning the criminal  22 conduct of doctors?  23 A. The overprescribing and the flooding  24 of our county with pain medication, yes.  25 Q. By doctors, right?</p>	<p style="text-align: right;">Page 48</p> <p>1 the Defendants is ultimately responsible for  2 that?  3 A. Yes.  4 Q. Why is that?  5 A. These operations did not spring up  6 in a vacuum. The overprescribing of pain  7 medication in a pill mill was to address an  8 addicted population, and that addicted  9 population is the byproduct of overprescribing  10 and over-distribution of pain medication. So  11 the pill mill, while those activities are  12 illegal and I certainly would say contribute,  13 are ultimately referable back to an addicted  14 population that was created by the actions of  15 the Defendant.  16 Q. The doctor wrote the prescription,  17 right, in a pill mill?  18 MR. BADALA: Objection to form.  19 Outside the scope.  20 A. The doctor in the pill mill had to  21 write the prescription, yes.  22 Q. And that's the illegal conduct,  23 right?  24 MR. BADALA: Objection to form.  25 Outside the scope.</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. BADALA: Objection to form.  2 A. By the prescribers, yes.  3 Q. And you believe those people should  4 be punished, I take it?  5 MR. BADALA: Objection to form.  6 Outside the scope.  7 A. Yes.  8 Q. And they should lose their licenses?  9 MR. BADALA: Objection to form.  10 Outside the scope.  11 Q. Go ahead.  12 A. They broke the law. Yeah, I think  13 they should be punished for that, as anybody who  14 breaks the law should get some consequence.  15 Q. And if a doctor broke the law and  16 improperly prescribed, they should be punished  17 and perhaps lose their license and perhaps go to  18 jail, correct?  19 MR. BADALA: Objection to form.  20 Outside the scope.  21 A. I think that's a decision the county  22 would support.  23 Q. And you believe that if they engaged  24 in illegal conduct such that they should lose  25 their license or go to jail, that somehow one of</p>	<p style="text-align: right;">Page 49</p> <p>1 A. I think, you know, in speaking with  2 the prosecutor, they would say, you know, there  3 were, you know, some legitimate patients in the  4 pill mills and some illegitimate patients, and  5 certainly the ones who were receiving  6 diverted -- receiving prescriptions for  7 illegitimate purposes or under improper means,  8 those are the ones that are breaking the law.  9 Q. So even in a pill mill, some of them  10 were legitimate, some of them were illegitimate?  11 MR. BADALA: Objection to form.  12 Outside the scope.  13 A. That was my understanding based on  14 discussion with the county prosecutor's  15 representative, yes.  16 Q. And if a doctor was punished or  17 prosecuted, it was because he or she engaged in  18 knowingly willfully wrong conduct, right?  19 MR. BADALA: Objection to form.  20 Outside the scope.  21 A. I would think so, yeah, sure.  22 Q. And are you aware of any statement,  23 misrepresentation and conduct that led any of  24 those doctors -- by the Defendants that led any  25 of those doctors to engage in illegal conduct?</p>

<p style="text-align: right;">Page 50</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 Outside the scope.</p> <p>3 Q. Any specifics?</p> <p>4 A. Statements by the Defendants?</p> <p>5 Q. Right, that led to someone engaging</p> <p>6 in illegal prescribing conduct.</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 Outside the scope.</p> <p>9 A. I think it's the misrepresentations</p> <p>10 of the Defendants that create the addicted</p> <p>11 population. They don't specifically recruit</p> <p>12 people to run a pill mill, but as they create</p> <p>13 the addicted population and that generates the</p> <p>14 pill mill, I would say then those statements are</p> <p>15 relevant.</p> <p>16 Q. Let's just talk about the doctors</p> <p>17 who wrote those prescriptions. Do you have any</p> <p>18 information about any statements made to any of</p> <p>19 those doctors that caused them to engage in</p> <p>20 illegal conduct?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 Outside the scope.</p> <p>23 A. I don't believe the county does, no.</p> <p>24 Q. And what could any of the Defendants</p> <p>25 have done to prevent the Mexican drug cartel</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 A. I think I've answered everybody I</p> <p>3 can, sir.</p> <p>4 Q. Let's look at topic 9, the factors</p> <p>5 that the county as a non-expert believe affect</p> <p>6 the prescribing practices for prescription</p> <p>7 opioids in your community other than the conduct</p> <p>8 of Defendants.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Who did you talk to in order to be</p> <p>12 able to testify about that?</p> <p>13 A. Mr. Shannon, in my office, and I</p> <p>14 would have described that, and then based -- in</p> <p>15 the medical examiner's office -- I'm sorry. I'm</p> <p>16 just trying to get up to speed again with this.</p> <p>17 I read it. And I don't want to take up a lot of</p> <p>18 your time. Some of this would be related to my</p> <p>19 discussion with Dr. Papp as well at the county</p> <p>20 hospital.</p> <p>21 Q. Okay. So let me just ask you, then,</p> <p>22 an open-ended question that hopefully you can</p> <p>23 help us with. What are the factors that you as</p> <p>24 a non-expert, the county as a non-expert,</p> <p>25 believe affected prescribing physicians for</p>
<p style="text-align: right;">Page 51</p> <p>1 from making and trafficking and sending illicit</p> <p>2 fentanyl to the county? Are you aware of any</p> <p>3 steps?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 Outside the scope.</p> <p>6 A. Could have avoided creating an</p> <p>7 addicted population in the first place.</p> <p>8 Q. An addicted population, you've</p> <p>9 mentioned that many times. I understand your</p> <p>10 point on that. What I'm talking about is the</p> <p>11 conduct of others, right, of doctors right now</p> <p>12 and the cartel. Let's talk about that. Do you</p> <p>13 have any information as to what any of the</p> <p>14 Defendants could have done to prevent any of</p> <p>15 those illegal conduct by Mexican drug cartels?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 Asked and answered. Outside the scope.</p> <p>18 A. If the addicted population was not</p> <p>19 created, there would not have been a market for</p> <p>20 the Mexican drug cartel.</p> <p>21 Q. Does the addicted population --</p> <p>22 well, strike that.</p> <p>23 Other than what we've talked about,</p> <p>24 can you identify any specific individual or</p> <p>25 entity in connection with 34, topic 34?</p>	<p style="text-align: right;">Page 53</p> <p>1 prescription opioids in Cuyahoga County other</p> <p>2 than the conduct of any Defendant?</p> <p>3 A. It is, again, the county's opinion</p> <p>4 that ultimately those actions are all referable</p> <p>5 back to the Defendants, and there's nothing --</p> <p>6 there are intermediate steps, but ultimately</p> <p>7 they're referable back to the Defendants.</p> <p>8 Q. And can you identify -- are you able</p> <p>9 to parse out any conduct by any Defendant?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 Outside the scope.</p> <p>12 A. Yes, I am. We are. The county, as</p> <p>13 you know.</p> <p>14 Q. So the answer essentially to 9 is</p> <p>15 there are none?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 A. Other than the Defendant or actions</p> <p>18 referable back to the Defendant.</p> <p>19 Q. Well, that's not what it says. It</p> <p>20 says -- let's not rewrite the interrogatory. It</p> <p>21 says, "Other than the conduct of any Defendant."</p> <p>22 Are there any factors, even one, that the county</p> <p>23 believes affected prescribing practices for</p> <p>24 prescription opioids other than the conduct of</p> <p>25 any Defendant? Are there any, yes or no?</p>

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1 MR. BADALA: Objection to form.  
 2 Asked and answered.  
 3 A. On behalf of the county, I'd have to  
 4 say again that there are intermediates, but  
 5 ultimately the answer to that would be no,  
 6 excepting those intermediates; that all of the  
 7 actions around the prescribing are referable  
 8 back to the Defendants.  
 9 Q. So tell me all the intermediates.  
 10 MR. BADALA: Objection to form.  
 11 A. If we look at the heroin-addicted  
 12 population, again, 80 percent or so of these  
 13 individuals in Cuyahoga County, give or take --  
 14 I mean, you use national data coupled with local  
 15 data to say that that addicted population  
 16 started their addiction with opioid pain  
 17 relievers.  
 18 Now, if you would say does one of  
 19 the Defendants run a drug cartel in Mexico, I  
 20 think we would all agree the answer to that is  
 21 no. But at the time the opioid crisis evolved  
 22 from a more opioid pain reliever to a heroin  
 23 phase, again, with these folks having their  
 24 antecedent addiction to opioid pain relievers in  
 25 large measure, the availability of heroin at

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1 that point was an inducement to the cartels to  
 2 start to sell that here, and because of less  
 3 availability of narcotics, potential  
 4 reformulations of the prescription pain  
 5 relievers, costs of the prescription pain  
 6 relievers, any other potential factors, heroin  
 7 started to become a crisis in our county, but  
 8 the actions of heroin, or the genesis of the  
 9 heroin addiction is referable back to the opioid  
 10 pain relievers.  
 11 Q. I'm going to move to strike. I  
 12 asked you specifically, Doctor, what the  
 13 intermediates are. One is, in that answer I  
 14 think you just gave us, cartels; they're an  
 15 intermediary, right?  
 16 A. Sure.  
 17 Q. Who else?  
 18 A. The addicted population I guess are  
 19 intermediaries in that they are now engaged in  
 20 drug-seeking behavior.  
 21 Q. Who else?  
 22 A. In that model, I think that just  
 23 describes kind of the chain from the cartel.  
 24 You know, there's obviously distribution points  
 25 between cartel, dealer, and things like that.

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1 Q. Be specific as you could, please,  
 2 Doctor.  
 3 MR. BADALA: Objection to form.  
 4 A. Well, a cartel would basically  
 5 oversee an operation that potentially would have  
 6 local distribution points, regional distribution  
 7 points. A lot of our drugs, for example, could  
 8 have come through Columbus, Detroit, Chicago,  
 9 New York, there, and ultimately come down to  
 10 people distributing those drugs locally. I  
 11 guess they would be intermediate points. They  
 12 just kind of lump the cartel as the distribution  
 13 system there.  
 14 And then the sale of the heroin,  
 15 which, as I indicated, it's really not something  
 16 that is being manufactured or distributed by the  
 17 Defendants, but as we look at how this  
 18 population was initially created, that is  
 19 referable back to the actions of the Defendants.  
 20 Q. Now, I'm going to go back and we're  
 21 going to read number 9 again because I think  
 22 we've gotten a little off topic, but let me just  
 23 ask you a few questions here.  
 24 So the intermediaries are the people  
 25 in the cartel and illegal drug distribution

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1 chains; is that fair?  
 2 MR. BADALA: Objection to form.  
 3 A. I think so, sure.  
 4 Q. And you can't tell me any of the  
 5 names of those people, right?  
 6 A. Thankfully not, not.  
 7 Q. What about doctors who engaged in  
 8 illegal conduct; are they intermediaries in the  
 9 chain?  
 10 MR. BADALA: Objection to form.  
 11 A. The illegal conduct, as I just want  
 12 to be clear, is the pill mill type doctor?  
 13 Q. Yes.  
 14 A. Yes. I'd say they're part of the  
 15 intermediary, too.  
 16 Q. What about healthcare policies that  
 17 encouraged doctors to write prescriptions for  
 18 opioids as opposed to other therapies?  
 19 MR. BADALA: Objection to form.  
 20 A. They could contribute in some way as  
 21 well.  
 22 Q. Could a lack of focus or funding or  
 23 attention by governments also contribute?  
 24 A. I'd have to say in a theoretical  
 25 sense, it's certainly possible.



<p style="text-align: right;">Page 58</p> <p>1 Q. Now let's get back to number 9. It 2 says, The factors that you, as an expert {sic}, 3 believe affected prescribing practices, right? 4 Do you see that, prescribing practices for 5 prescription opioids in your community rather 6 than the conduct of the Defendant. Do you see 7 that? 8 A. Yes, I do. 9 Q. I take it you would not tell me 10 that, in response to number 9, the drug cartels 11 would be one that you would list, would you? 12 A. No. 13 Q. So let's focus on number 9. What 14 are the factors in response to number 9? 15 MR. BADALA: Objection to form. 16 Asked and answered. 17 A. The factors that affected 18 prescribing practices were, in the early part of 19 the crisis, the advertisements that were 20 indicating that the opioid pain relievers were 21 either not addictive or had tremendously low 22 addiction potential with very little evidence. 23 The influence of regulatory policies with 24 lobbying efforts that were, again, referable 25 back to Defendants.</p>	<p style="text-align: right;">Page 60</p> <p>1 of the Defendants? 2 MR. BADALA: Objection to form. 3 Asked and answered. 4 A. I guess it's hard because what I am 5 saying to you, and I hope I'm clear, and I'm 6 sorry if I'm not, it is the county's position 7 that everything is referable back to the 8 Defendants, but there are chains, there's 9 degrees of separation. But I would say, in 10 answer to your question, if you need a one-word 11 answer, the county says no, there are no other 12 folks who are ultimately responsible other than 13 the Defendants. 14 Q. And I'm not trying to limit you to a 15 one-word answer, but are there any factors -- 16 this is different. Are there any factors 17 relatable to that affected prescribing practices 18 other than the conduct of Defendants? 19 MR. BADALA: Objection to form. 20 Asked and answered. 21 A. No. 22 Q. And do you know if the county 23 employed an economist to analyze the motivating 24 factors for illicit drug markets? Are you aware 25 of any work that was done in that regard?</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. Doctor, I'm sorry to interrupt you, 2 and I apologize, but it says other than the 3 conduct of the Defendants. Do you see that? 4 A. I do, you know, but -- 5 Q. So is there -- 6 MR. BADALA: Hold on. Let him 7 finish. 8 MR. CHEFFO: Well, I didn't ask a 9 question yet. 10 MR. BADALA: He was still talking 11 before moving on to the next one. 12 Q. Go ahead. 13 A. Thanks. I'm sorry if I'm not clear, 14 but it's the county's position that ultimately 15 all of the things that affect those prescribing 16 factors are referable back to the Defendants. 17 Q. And if that's the case, Doctor, all 18 you have to tell me, then, is just I have none, 19 right. I don't need the whole long answer. I 20 want to just make sure, before I move to the 21 next topic, are there any -- let's make sure 22 we're clear on this. Are there any factors that 23 the county, as a non-expert, believe affected 24 prescribing practices for prescription opioids 25 in Cuyahoga County other than the conduct of any</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. BADALA: Objection to form. 2 Also, I instruct you not to answer if you 3 learned this through counsel in any way. 4 A. I'm not sure I understand the 5 question, actually. 6 MR. BADALA: Also, outside the 7 scope. 8 Q. Do you know when the first year the 9 Mexican drug cartel sent product into this 10 county? 11 A. I don't think the county would know 12 that. 13 Q. You don't know, though? 14 A. I don't know and I don't think the 15 county would. I don't think that's really 16 something we would be able to know given the 17 illegal and surreptitious nature of that kind of 18 distribution. 19 Q. So before we leave 9, there is no -- 20 there are no factors that you can testify to 21 today, right? In fact, the county believes that 22 there are no other factors? 23 MR. BADALA: Objection. Asked and 24 answered. 25 A. Ultimately, the county's position is</p>

<p style="text-align: right;">Page 62</p> <p>1 that the factors are all referable back to the 2 Defendants. 3 Q. That may be the county's position, 4 but I want you to read 9 and tell me if there 5 are no other factors, because it doesn't say 6 ultimately. It says, "Other than the conduct of 7 any Defendant." 8 MR. BADALA: Objection. Asked and 9 answered. 10 A. I don't know how else to answer 11 that. The county would say there were 12 intermediate steps, but ultimately the conduct 13 of the Defendants is responsible for the 14 prescribing practices. 15 Q. Okay. Is the county's testimony and 16 position that all prescriptions of opioids for 17 chronic pain in Cuyahoga were written in 18 reliance on misrepresentations and omissions and 19 wrongdoing of Defendants? 20 MR. BADALA: Objection to form. 21 Which topic are we looking at? 22 MR. CHEFFO: It's a general question 23 first. 24 MR. BADALA: Outside the scope. 25 A. The county doesn't have an opinion</p>	<p style="text-align: right;">Page 64</p> <p>1 as a potential -- or not a potential; as a 2 source of the opioid epidemic. 3 Q. But with respect to taking a 4 position on all chronic therapies -- I'm sorry. 5 Strike that. 6 In connection with taking a position 7 about all prescriptions for opioid medicines for 8 chronic therapies, the county is not taking a 9 position on that? 10 MR. BADALA: Objection to form. 11 A. No, it is not. 12 Q. Let us -- you did some work in 13 connection with certain interrogatory responses 14 in connection with preparing for today, did you 15 not? 16 A. No, not that I'm aware of. I mean 17 -- 18 Q. Did you look at any charts -- 19 A. The data was certainly available to 20 everybody, but -- 21 Q. Did you look at any charts or 22 printouts of prescription drug data? 23 A. I mean, I've reviewed the Ohio 24 Automated RX Recovery System in my capacity as 25 the medical examiner in association with the</p>
<p style="text-align: right;">Page 63</p> <p>1 on the medical appropriateness of prescriptions 2 written for opioid pain relievers in association 3 with all chronic pain patients. 4 MR. CHEFFO: I'm sorry. Can you 5 read that back to me, please? 6 (Record read.) 7 Q. Does it have a position on the 8 appropriateness of opioid therapy in connection 9 with any chronic pain patients? 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. The county doesn't have an opinion 13 on appropriateness of therapy. That's, I think, 14 referred to experts. 15 Q. So the county has not taken a 16 position, as you know it, as to whether any 17 prescription for any chronic pain patient is 18 appropriate or not? 19 MR. BADALA: Objection to form. 20 Outside the scope. 21 A. As I understood your question, 22 you're asking about all prescriptions, which I 23 think the question would not offer an opinion. 24 The overprescribing in the setting of chronic 25 pain is certainly a factor the county recognizes</p>	<p style="text-align: right;">Page 65</p> <p>1 fatalities that were passing through our office. 2 That wasn't in preparation for today 3 specifically. 4 Q. Well, the interrogatory responses to 5 interrogatory 6, 7 and 10, did you look at 6 those? 7 A. No. They weren't on my scope of -- 8 or 6 was, I guess. 7 and 10 -- 9 Q. They're encompassed within the 10 Special Master's order, but tell us what you did 11 for 6. 12 A. The county collected claims data 13 from third parties, such as Medical Mutual of 14 Ohio, which was the healthcare carrier for the 15 county; Bureau of Workers' Compensation, which 16 is the state workman's compensation board; and 17 CVS, which oversees -- CVS Pharmacy, which 18 oversees our prescription planning for the 19 county, and turned that data over to its 20 attorneys, and the attorneys then worked with 21 experts to respond to the interrogatories. So 22 we furnished the claims data to attorneys, and 23 then it was reviewed with experts to respond to 24 the interrogatories. I was not among the 25 experts who were consulted on that.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. And did you see a spreadsheet that 2 was produced that had 500 prescriptions on it? 3 A. I'm aware that there were 500 -- I 4 thought it was 500 patients who were identified 5 who met the criteria that I mentioned 6 previously. Beyond that, that's as much as I'm 7 familiar with that. 8 - - - - - 9 (Thereupon, Gilson Deposition 10 Exhibit 2, Plaintiff's The County of 11 Cuyahoga, Ohio and State of Ohio Ex 12 Rel, Prosecuting Attorney of 13 Cuyahoga County, Michael C. 14 O'Malley's Amended Responses to the 15 Manufacturer Defendants' and 16 National Retail Pharmacy Defendants' 17 First Set of Interrogatories, with 18 Attached Spreadsheets, was marked 19 for purposes of identification.) 20 - - - - - 21 Q. Okay. What was the criteria -- 22 let's be more specific. We've marked this as 2. 23 This is Exhibit 2. 24 MR. BADALA: Mark, we're on topic 6 25 but interrogatory 6? I'm just trying to keep</p>	<p style="text-align: right;">Page 68</p> <p>1 A. No, I did not. 2 Q. Did you review any documents? 3 A. No, I did not. 4 Q. And how much time did you spend 5 meeting with your lawyers in connection with 6 those topics? 7 A. Oh. Well, we met over a couple of 8 days, and, I mean, topics were coming and going. 9 Our total meeting time I would say is probably 10 about 10 to 12 hours. Some portion of that. I 11 couldn't be more specific. We did not spend a 12 lot of time on these, as the responses to 13 interrogatories were generated in consultation 14 with the experts. So this was going to just 15 have a reply that they were furnished and that 16 that was the county's response, what was in the 17 interrogatories. 18 Q. I'm sorry. Is it your testimony you 19 don't have much to add other than what's in the 20 interrogatories? 21 MR. BADALA: Objection to form. 22 A. That's correct. 23 Q. Okay. Well, let's -- let's ask you 24 to take a look at what we've marked as 25 Exhibit -- it's Exhibit 2.</p>
<p style="text-align: right;">Page 67</p> <p>1 track. 2 MR. CHEFFO: No. It is a little 3 confusing. 4 MS. ROITMAN: So we're going to be 5 on topic 4, 5 and 6. 6 MR. BADALA: Just so it's clear. 7 Okay. 8 Q. Are you prepared to talk about 9 topics 4, 5 and 6, Doctor? 10 A. Just to generally state the county's 11 position, yes. 12 Q. What did you do to prepare yourself 13 for topics 4, 5 and 6? 14 A. I discussed them with counsel and 15 they responded to the interrogatories, which I 16 didn't do much preparation beyond the turning -- 17 the county turning over data to our attorneys 18 and then that being reviewed with experts to 19 respond to the interrogatories. 20 Q. I'm talking about your preparation, 21 so one of the things you did was you met with 22 your lawyers, right? 23 A. Yes. 24 Q. Did you meet with anybody else in 25 connection with those topics?</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. GALLUCCI: Which one is 2? 2 MR. CHEFFO: It's the whole thing. 3 Q. Have you seen that before, Doctor? 4 A. I have not seen this document 5 before, no. At least I'm not -- 6 Q. So with respect to any of the names 7 or prescriptions in these charts, do you have 8 any information about the criteria that was used 9 in responding to interrogatory 6? 10 A. The claims were identified for 11 opioids that were not for cancer patients, were 12 high dose, that is 120 medical morphine 13 equivalents or higher, which are far more 14 dangerous, and for patients with diagnosed 15 substance use disorder. 16 Q. Is that for the interrogatory 6 17 response or is that for more than that, or do 18 you know? 19 A. It was -- I think the criteria were 20 spelled out in interrogatory -- or in topic 21 number 4, but as it related back to number 4, 22 it's the reply for number 6. 23 Q. So those three criteria, not for 24 cancer patients, above 20 milligrams -- 25 A. 120.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. 120. Excuse me. Thank you for 2 that. 3 A. Morphine medical equivalents. 4 Q. So we'll just call it MME. 5 A. MME, yes. 6 Q. And then there is also a requirement 7 on the criteria that they are -- had been 8 diagnosed with an opioid abuse disorder? 9 A. Diagnosed substance use disorder, 10 yes. 11 Q. Substance use disorder. 12 A. I think in some places that will 13 also be spelled out as substance abuse disorder. 14 The nomenclature is kind of in flux I think in 15 trying to avoid the stigmatization of addicts. 16 Q. Do you know who created those 17 criteria? 18 A. I do not. 19 Q. So is it -- are there any other 20 criteria that were used? 21 A. That's the extent of my knowledge as 22 to the county of the criteria that were used to 23 identify the claims. 24 Q. Do you know if anyone at the county 25 set those criteria?</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Did you see Exhibit 2 before? 2 A. I don't remember seeing this, no, I 3 myself. I mean, the county, I can't necessarily 4 say that they did not see it. Myself, I did not 5 see it. 6 Q. Okay. In the response to 7 interrogatory 6, the county identified Exhibit 8 A. Do you see this big document here? 9 A. This one (indicating)? 10 Q. Yes. 11 A. Yes. 12 Q. Have you seen that exhibit before? 13 MR. BADALA: Objection to form. 14 A. Can you give me a second to not give 15 a quick off-the-cuff answer? 16 No, I have not seen that before. 17 Q. And is it your understanding that in 18 order -- so let me strike that. 19 You just identified for us three 20 criteria, right, the one -- over 120 MME, 21 substance disorder, and not for cancer, right? 22 A. And a diagnosed substance use/abuse 23 disorder, yes. 24 Q. That was one of the three, right? 25 It was diagnosed --</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. BADALA: Objection to form. 2 Outside the scope. 3 A. That, I do not know. 4 Q. And do you know what -- what 5 information or databases were queried in order 6 to generate the 500 list? 7 A. These criteria and then third-party 8 claims data was collected from Medical Mutual of 9 Ohio, Workman's Compensation and CVS, as they 10 had their relationship to the county. Beyond 11 that, I do not know what other entities were 12 queried for claims data. 13 Q. Who actually did the work of 14 querying it? Was it the county or was it 15 somebody else? 16 MR. BADALA: Objection to form. 17 Outside the scope. 18 A. I believe the county collected the 19 claims data, but the analysis beyond that, to 20 respond to the interrogatories, was with 21 attorneys with experts. 22 Q. Okay. And I think you told us you 23 never saw Exhibit 2 before, right? 24 MR. BADALA: Objection to form. 25 Mischaracterizes testimony.</p>	<p style="text-align: right;">Page 73</p> <p>1 A. Oh, I'm sorry. You said that first 2 -- 3 Q. I may have said it backwards, but it 4 was not for a cancer patient, above 120 MME -- 5 A. Which would be considered dangerous, 6 and then identified substance abuse disorder. 7 Q. Okay. And what -- what were those 8 criteria used for? 9 MR. BADALA: Objection to form. 10 Outside the scope. 11 A. I think identification of claims 12 data, as I understand it. 13 Q. Identification of certain claims. 14 Did you understand it that those were the 15 criteria that were used to generate Exhibit A? 16 A. You know, I don't know Exhibit A, so 17 I'm reluctant to give an answer on that. These 18 were the criteria that were identified to 19 identify the claims -- they were spelled out to 20 identify the claims. Being unfamiliar with this 21 document, if these are the claims that were 22 passed by the county, then these were the 23 criteria that were used for that. Not knowing 24 the document, I'm reluctant to go further than 25 that.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. What I'm just trying to understand, 2 you gave us those three criteria. What did you 3 understand those criteria were going to be used 4 for? 5 A. As I understood it, there was a 6 population of 500 patients who were identified 7 to be a representative of harms that the county 8 had claimed, and then the claims data for those 9 individuals were identified using those three 10 criteria. 11 Q. So you thought that there were an 12 effort to identify 500 individuals and there 13 were these criteria and those criteria generated 14 the 500 individuals? 15 A. That's my understanding of that, 16 yes. 17 Q. Were you aware of any prescriptions 18 that were also identified? 19 MR. BADALA: Objection to form. 20 Outside the scope. 21 A. My understanding of this topic is 22 that the 500 number identified patients, not 23 prescriptions. I mean, prescriptions obviously 24 were attached to the patients, but they were 25 patients who were identified, not specific</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. And how was it determined that the 2 patient received opioid therapy for non-cancer 3 use? 4 MR. BADALA: Objection to form. 5 Outside the scope. 6 A. As I say, I can't give you personal 7 knowledge on that. I would think from a review 8 of medical records. 9 Q. Do you know? 10 MR. BADALA: Same objection. 11 A. I don't know for certain. 12 Q. Do you know at all? 13 MR. BADALA: Same objections. 14 A. No. They were identified as not 15 being cancer patients. The criteria, how that 16 was arrived at, I do not know. 17 Q. Not how it was arrived at, but how 18 it was determined. Do you know how they 19 determined whether -- if a person or 20 prescription was on the list, how it was for a 21 non-cancer patient or diagnosis? Do you have 22 any information at all? 23 MR. BADALA: Objection to form. 24 A. No, I do not have separate 25 information on that.</p>
<p style="text-align: right;">Page 75</p> <p>1 prescriptions. 2 Q. And you've never seen any 3 information or list of the actual 500 patients 4 or prescriptions, have you? 5 A. No, I have not. 6 Q. Do you understand that a list was 7 prepared? 8 A. Yes, I do understand that. 9 Q. And is it your understanding that 10 every one of the patients or prescriptions on 11 the list meets these three criteria? 12 MR. BADALA: Objection to form. 13 Outside the scope. 14 A. I mean, that's my understanding of 15 the criteria that were agreed to to select the 16 patients who were the 500 patients. 17 Q. So in order to identify the patients 18 or prescriptions, they had to meet all of these 19 three criteria; is that right? 20 A. That's my understanding, yes. 21 Q. Did they have to meet any other 22 criteria? 23 MR. BADALA: Objection to form. 24 Asked and answered. 25 A. Not that I'm aware of, no.</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. Did you talk to anybody about that? 2 A. No, I did not. 3 Q. Did you -- do you have any 4 information how it was determined that a 5 prescription was above 120 MME? 6 MR. BADALA: Objection to form. 7 Outside the scope. 8 A. Other than a review of pharmacy or 9 medical record data, I'm giving you my best 10 opinion as an individual, but how the county 11 came to that, I do not have specific information 12 for it. 13 Q. And I appreciate that. I don't want 14 you to guess or speculate. I think your lawyers 15 would agree with me. Do you have any personal 16 knowledge, through either your own knowledge or 17 from any work that you've done to prepare for 18 the deposition, as to how it was determined that 19 a prescription or patient received above 120 20 MME? 21 MR. BADALA: Objection to form. 22 Outside the scope. 23 A. Other than what I've said, you know, 24 a review of medical records would seem to 25 furnish that. I don't know.</p>



<p style="text-align: right;">Page 78</p> <p>1 Q. Did you talk to anyone who reviewed 2 medical records? 3 A. No, I did not. 4 Q. Do you know that they reviewed 5 medical records? 6 MR. BADALA: Objection to form. 7 A. No. I was just giving you my 8 best -- 9 Q. Guess? 10 A. I think informed guess. There's 11 only so many ways you can get this kind of 12 information, so -- 13 Q. But you don't know how they did it? 14 A. But I do not know the methodology 15 exactly. 16 Q. And you don't know what the QC 17 process was, if any, do you? 18 MR. BADALA: Objection to form. 19 Outside the scope. 20 A. No, I do not. 21 Q. And did -- was there -- and the 22 third criteria that you said was the substance 23 abuse disorder? 24 A. Yes. 25 Q. Do you know how they determined if</p>	<p style="text-align: right;">Page 80</p> <p>1 MR. BADALA: Objection to form. 2 Outside the scope. 3 A. No, I'm not. 4 Q. And are you aware of any criteria 5 that was used to identify over 120 MME? 6 MR. BADALA: Objection to form. 7 Outside the scope. 8 A. I didn't understand your question. 9 Q. You told us one of the criteria was 10 over 120 MME, I take it, per daily use; is that 11 right? 12 A. Medical morphine equivalents for 13 daily use. 14 Q. For daily use. 15 Can you be more specific about how 16 that was defined and how it was identified? 17 MR. BADALA: Objection to form. 18 Outside the scope. 19 A. I'm aware of standard definitions 20 for -- that they exist for medical morphine 21 equivalents. What was used here, I cannot 22 honestly say I know for certain. 23 Q. In fact, you don't know at all, do 24 you -- 25 MR. BADALA: Objection to form.</p>
<p style="text-align: right;">Page 79</p> <p>1 somebody had a substance abuse disorder? 2 MR. BADALA: Objection to form. 3 Outside the scope. 4 A. I'm aware that criteria are spelled 5 out for that diagnosis. How they came to 6 that -- any application of this criteria, I do 7 not know. 8 Q. Do you know what criteria they used? 9 Was it the DSM-5 criteria? 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. You're grazing into a lot of 13 medicine I don't remember, but I don't know what 14 criteria were used. 15 Q. I thought you told me that you did 16 know what the criteria for substance abuse 17 disorder was. 18 A. I don't believe I said that. I said 19 there are criteria. I'm aware of the diagnosis, 20 but I don't know them personally. 21 Q. There's a diagnosis of substance 22 abuse disorder? 23 A. I believe so, yeah. 24 Q. And are you familiar what those 25 criteria are?</p>	<p style="text-align: right;">Page 81</p> <p>1 A. Don't know at all. 2 Q. -- how any of these criteria were 3 used or developed or applied, because you didn't 4 ask anybody, did you? 5 MR. BADALA: Objection to form. 6 Outside the scope. 7 A. No. I was told these had been 8 answered in interrogatories. 9 Q. Did you understand that one of the 10 topics you were going to be -- or several of the 11 topics was the criteria that were going to be 12 used, that were used, in connection with 13 responding to the interrogatories? 14 A. I was aware of the topics and these 15 are the answers that I have to give on behalf of 16 the county. 17 MR. BADALA: So we're going over 18 about an hour now. Is it a good time to take a 19 break? 20 MR. CHEFFO: Yes. Sure. 21 THE VIDEOGRAPHER: Off the record at 22 10:16 a.m. 23 (Recess had.) 24 THE VIDEOGRAPHER: Back on the 25 record at 10:38 a.m.</p>

<p style="text-align: right;">Page 82</p> <p>1 A. May I make a correction on the</p> <p>2 record before we start?</p> <p>3 I said I had destroyed notes of</p> <p>4 conversations with three individuals. I was</p> <p>5 able to locate notes that I did keep and I'll</p> <p>6 provide them to counsel.</p> <p>7 MR. BADALA: We'll review them and</p> <p>8 make sure that they don't have any</p> <p>9 communications.</p> <p>10 Q. Where are they?</p> <p>11 A. They were in a case file I have on</p> <p>12 this.</p> <p>13 Q. In your office?</p> <p>14 A. I brought them here with me today.</p> <p>15 Q. So they're not in the landfill?</p> <p>16 A. Pardon me?</p> <p>17 Q. They're not in the landfill?</p> <p>18 A. One might be. I can say that they</p> <p>19 mentioned the three individuals, Dr. Papp and</p> <p>20 Vince Caraffi. I found those notes. The other</p> <p>21 one, with Tamara Chapman from DCFS, I had on a</p> <p>22 phone -- list of phone numbers, was just taking</p> <p>23 messages, and I'm quite certain I threw that one</p> <p>24 away. So that might be in the landfill.</p> <p>25 I can tell you the points on that</p>	<p style="text-align: right;">Page 84</p> <p>1 Exhibit 3, Plaintiffs The City of</p> <p>2 Cleveland, County of Cuyahoga,</p> <p>3 County of Summit and City of Akron's</p> <p>4 Supplemental Amended Responses and</p> <p>5 Objections to the Manufacturer</p> <p>6 Defendants' First Set of</p> <p>7 Interrogatories, Submitted Pursuant</p> <p>8 to Discovery Ruling No. 13, was</p> <p>9 marked for purposes of</p> <p>10 identification.)</p> <p>11 - - - - -</p> <p>12 Q. Let me show you Exhibit 3. Have you</p> <p>13 seen this document before, Doctor?</p> <p>14 A. No, I have not.</p> <p>15 Q. Would you look at page 5, please? I</p> <p>16 asked you a question earlier, and this may look</p> <p>17 or sound familiar to you, Doctor, but let me</p> <p>18 kind of ask you the question. The second full</p> <p>19 paragraph, do you see where it says, "Subject to</p> <p>20 and without waiving"?</p> <p>21 A. Oh, I'm sorry. I'm on 6.</p> <p>22 Q. I'm on 5.</p> <p>23 A. Yes.</p> <p>24 Q. "Subject to and without waiving the</p> <p>25 foregoing objections and limitations, Bellwether</p>
<p style="text-align: right;">Page 83</p> <p>1 were that, when I spoke with her, the number of</p> <p>2 custody cases that DCFS had seen had risen over</p> <p>3 the time of the opiate crisis, the number of</p> <p>4 toxicology positive infants had risen over the</p> <p>5 time of the opioid crisis, and that it was her</p> <p>6 impression that that was related to the opioid</p> <p>7 crisis.</p> <p>8 MR. CHEFFO: I'm going to move to</p> <p>9 strike that.</p> <p>10 MR. BADALA: We'd object to that</p> <p>11 motion to strike.</p> <p>12 MR. CHEFFO: And at the break I</p> <p>13 would call for those notes, since you have them</p> <p>14 here, produced to us, because otherwise, we're</p> <p>15 going to reserve our rights to continue this</p> <p>16 30(b)(6) when I get the notes. So you can take</p> <p>17 it under advisement. I don't want to quibble</p> <p>18 with you, but I think that would be the most</p> <p>19 efficient way to deal with it.</p> <p>20 Q. So, Doctor, any other clarifications</p> <p>21 before we start?</p> <p>22 A. No. That's the only one. Sorry</p> <p>23 about that.</p> <p>24 - - - - -</p> <p>25 (Thereupon, Gilson Deposition</p>	<p style="text-align: right;">Page 85</p> <p>1 Plaintiffs contend that all prescriptions of</p> <p>2 opioids for chronic pain in the Bellwether</p> <p>3 jurisdictions were in reliance on the</p> <p>4 misrepresentation, omissions, and wrongdoing</p> <p>5 alleged in their complaints."</p> <p>6 Do you see that?</p> <p>7 A. Yes, I do.</p> <p>8 Q. And you testified earlier that</p> <p>9 that's not the county's position; is that right?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 A. I think the prescriptions for</p> <p>12 chronic pain were based on misrepresentations,</p> <p>13 but whether they actually were written for</p> <p>14 people with legitimate chronic pain is a</p> <p>15 separate issue, and whether they were</p> <p>16 efficacious short term for that is a separate</p> <p>17 issue.</p> <p>18 Q. Is this right or wrong?</p> <p>19 A. I would say it's right.</p> <p>20 Q. So it is Cuyahoga County's position</p> <p>21 that all prescriptions of opioids for chronic</p> <p>22 pain in Cuyahoga were written in reliance on the</p> <p>23 misrepresentations, omissions, and wrongdoing</p> <p>24 alleged in the complaint?</p> <p>25 MR. BADALA: Objection to form.</p>



<p style="text-align: right;">Page 86</p> <p>1 A. Yes.</p> <p>2 Q. Every single one?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 Asked and answered.</p> <p>5 A. Yes.</p> <p>6 Q. Going back to when?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 Outside the scope.</p> <p>9 A. I was told the -- for any time frame</p> <p>10 that we were going back to was 1995 for the</p> <p>11 litigation.</p> <p>12 Q. How was chronic pain defined?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 Outside the scope.</p> <p>15 A. I think in the usual way. I don't</p> <p>16 know that I have a specific definition for it on</p> <p>17 behalf of the county.</p> <p>18 Q. How was it defined here in the</p> <p>19 responses?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 A. I don't have a specific answer on</p> <p>22 behalf of the county of the definition of that.</p> <p>23 Q. Well, you've told me the statement</p> <p>24 was true, so how do you know if it's true or not</p> <p>25 if you can't define chronic pain?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I'm sorry. Your question again?</p> <p>2 Q. What steps were taken to verify that</p> <p>3 every prescription written since 1995 for an</p> <p>4 opioid medicine for chronic pain was done so in</p> <p>5 reliance on misrepresentations, omissions, and</p> <p>6 wrongdoing by the Defendants?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 Outside the scope.</p> <p>9 A. The county collected the claims data</p> <p>10 from the third parties and then it was turned</p> <p>11 over to attorneys and experts for review.</p> <p>12 Q. Was one of the criteria whether a</p> <p>13 doctor was visited by a sales rep?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 Asked and answered.</p> <p>16 A. The criteria that were applied to</p> <p>17 identify the claims were that they were not for</p> <p>18 cancer patients, were high dose, higher than 120</p> <p>19 medical morphine equivalents, or for patients</p> <p>20 diagnosed with substance abuse -- and for</p> <p>21 patients diagnosed with substance abuse</p> <p>22 disorder. I don't see any reference in the</p> <p>23 criteria specifically to visits from</p> <p>24 pharmaceutical representatives.</p> <p>25 Q. Are there any criteria related to</p>
<p style="text-align: right;">Page 87</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 Outside the scope.</p> <p>3 A. The opioids were prescribed for</p> <p>4 chronic pain. That's the way I read that as a</p> <p>5 whole block there.</p> <p>6 Q. And do you know what definition --</p> <p>7 what's your definition for chronic pain?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 Outside the scope.</p> <p>10 A. I don't believe the county has a</p> <p>11 specific definition for chronic pain. It would</p> <p>12 have been referred to experts.</p> <p>13 Q. Do you have one?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 Outside the scope.</p> <p>16 A. Me personally? Nothing more than I</p> <p>17 would say my layman's definition. I don't have</p> <p>18 a specific medical definition of chronic pain.</p> <p>19 Q. What steps were taken to verify that</p> <p>20 every single prescription written in Cuyahoga</p> <p>21 for chronic pain for opioids since 1995 was done</p> <p>22 so in reliance on misrepresentations, omissions</p> <p>23 and wrongdoing by the Defendants?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 Outside the scope.</p>	<p style="text-align: right;">Page 89</p> <p>1 any conduct on behalf of any of the Defendants?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 Outside the scope.</p> <p>4 A. The criteria that I enumerated here</p> <p>5 are the ones that were used to identify the</p> <p>6 claims.</p> <p>7 Q. Do any of them relate to any conduct</p> <p>8 by any Defendant?</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 Outside the scope.</p> <p>11 A. Do the claims have?</p> <p>12 Q. Do the criteria?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 A. I'm not understanding your question.</p> <p>15 I'm sorry.</p> <p>16 Q. Do these relate to any criteria --</p> <p>17 do any of the criteria relate to any conduct or</p> <p>18 acts or omissions of any of the Defendants?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 Outside the scope.</p> <p>21 A. I think the criteria are clear</p> <p>22 enough, and then -- I'm sorry. Your question is</p> <p>23 just confusing me.</p> <p>24 Q. So one of the criteria is not for</p> <p>25 cancer pain, right?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. Yes.</p> <p>2 Q. But you've just told me that if</p> <p>3 there was an opioid prescription for chronic</p> <p>4 pain for cancer patients, that was in reliance</p> <p>5 on misrepresentations, omissions and wrongdoing</p> <p>6 of Defendants, right?</p> <p>7 A. Yes.</p> <p>8 Q. So which criteria applies? Does</p> <p>9 it --</p> <p>10 A. Cancer pain is viewed separately</p> <p>11 from chronic pain. That's terminal care,</p> <p>12 hospice care type of pain.</p> <p>13 Q. I'm talking about the statement on</p> <p>14 paragraph 5, page 5, paragraph 2, that you just</p> <p>15 told me was accurate. It doesn't carve out</p> <p>16 cancer pain, does it?</p> <p>17 A. No. It says, "chronic pain."</p> <p>18 Q. So is it accurate not carving out</p> <p>19 cancer pain?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 A. Cancer pain is considered different</p> <p>22 than chronic pain.</p> <p>23 Q. It's your testimony that you can't</p> <p>24 have -- a cancer patient can't have chronic</p> <p>25 pain?</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. So that response to 4, 5 and 6 and</p> <p>2 19, Exhibit 2, right?</p> <p>3 A. Topics 4, 5, 6 and 19. That's my</p> <p>4 understanding, yes.</p> <p>5 Q. The interrogatory 6 asks Plaintiffs</p> <p>6 to, among other things, identify and describe</p> <p>7 500 prescriptions of opioids that were written</p> <p>8 in Plaintiff's jurisdiction, here Cuyahoga, in</p> <p>9 reliance on any alleged misrepresentations,</p> <p>10 omission or other wrongdoing; is that right?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Outside the scope.</p> <p>13 A. I'm sorry. I don't know where</p> <p>14 you're at.</p> <p>15 Q. It's in Exhibit 3 on page 1. Do you</p> <p>16 see on page 1, Identify and describe 500</p> <p>17 prescriptions of opioids that were written in</p> <p>18 reliance on any alleged misrepresentations or</p> <p>19 other wrongdoing by any Defendant? Do you see</p> <p>20 that?</p> <p>21 A. Yes, I do.</p> <p>22 MR. BADALA: Just for the record,</p> <p>23 there's more beyond that in the interrogatory.</p> <p>24 MR. CHEFFO: Right, and there is.</p> <p>25 Q. And it also basically -- in addition</p>
<p style="text-align: right;">Page 91</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 Outside the scope.</p> <p>3 A. No. I think that, you know, they're</p> <p>4 as eligible for chronic pain as anyone else, but</p> <p>5 the cancer pain that they would receive opioid</p> <p>6 pain relievers for was terminal pain and not</p> <p>7 chronic in the conventional sense of the</p> <p>8 understanding of that word.</p> <p>9 Q. So you don't think pain for cancer</p> <p>10 patients is included in the statement on page 5?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Outside the scope.</p> <p>13 A. That's my understanding, yes.</p> <p>14 Q. So let's see if we can make sure</p> <p>15 that we're on the same page. So with respect to</p> <p>16 Exhibit 2, that was in response to</p> <p>17 interrogatories 7 and 10; is that your</p> <p>18 understanding?</p> <p>19 A. This exhibit (indicating)?</p> <p>20 Q. Yes.</p> <p>21 A. I thought was in response to</p> <p>22 interrogatories -- or, I'm sorry. Maybe I'm</p> <p>23 confusing topics with interrogatories. I</p> <p>24 thought these were generated in response to</p> <p>25 topics 4, 5, 6 and 19.</p>	<p style="text-align: right;">Page 93</p> <p>1 to other things, Plaintiffs were asked to</p> <p>2 provide various details, including the physician</p> <p>3 who wrote the prescription, the specific</p> <p>4 misrepresentation, the specific person</p> <p>5 associated with Defendants who made the alleged</p> <p>6 misrepresentation. Do you see that?</p> <p>7 A. Yes, I do. That's further down on</p> <p>8 the page.</p> <p>9 Q. And in order to respond, the</p> <p>10 Plaintiffs referred back and the county referred</p> <p>11 back to Exhibit A, which is that large printout</p> <p>12 that I just showed you.</p> <p>13 A. This one here (indicating).</p> <p>14 Q. Right.</p> <p>15 A. Okay.</p> <p>16 Q. And you've never seen that before</p> <p>17 today?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 A. No, I have not.</p> <p>20 Q. And if you look at page 14 of</p> <p>21 Exhibit 3 -- if you look at the last paragraph</p> <p>22 on page 14 of Exhibit 3, in the first sentence,</p> <p>23 kind of midway through, it says, "Bellwether</p> <p>24 Plaintiffs contend that each prescription in the</p> <p>25 previously-provided Exhibit A was the result of</p>

<p style="text-align: right;">Page 94</p> <p>1 Manufacturer Defendants' deceptive marketing."  2 A. I'm sorry.  3 Q. It's right down here, Doctor  4 (indicating).  5 A. Okay, right down at the bottom.  6 Okay.  7 Q. You've told us about three criteria?  8 A. Yes.  9 Q. Are those the only three criteria  10 that you're aware of for topics 4, 5, 7 and 19  11 or for topics -- interrogatories 6, 7 and 10?  12 MR. BADALA: I think you have them  13 mixed up again, Mark.  14 Q. Well, irrespective of the topics or  15 the interrogatories.  16 A. 4, 5, 6, 19, my understanding is  17 that the county collected the claims data based  18 on these criteria, turned them over to our  19 attorneys, and they were consulted with experts  20 and those were used to answer the  21 interrogatories. The county didn't have any  22 further involvement with the interpretation of  23 that.  24 Q. And with respect to any of the  25 topics that are the subject of Exhibit A, are</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Double negatives.  2 MR. BADALA: Objection to form.  3 Q. Chronic pain was not a criteria, was  4 it?  5 A. For selection, no.  6 Q. In connection with identifying any  7 of the individuals or prescriptions on Exhibit  8 A, did Cuyahoga County or anyone at its behest  9 talk to any doctors?  10 MR. BADALA: Objection to form.  11 Outside the scope.  12 A. The county submitted the claims data  13 to our attorneys and they consulted with  14 experts. I don't know the specific experts.  15 And that was the basis of the answers to the  16 interrogatories.  17 Q. Do you know if anyone spoke to  18 individual doctors or patients on Exhibit A?  19 MR. BADALA: Objection to form.  20 Outside the scope. Asked and answered.  21 A. The only expert I was aware of was  22 Rawlings, but other than that, I don't know what  23 experts were consulted.  24 Q. Doctor, my question is not that. I  25 didn't ask that question. I asked you if you're</p>
<p style="text-align: right;">Page 95</p> <p>1 those the only three criteria, is just what I'm  2 trying to find out, or were there other  3 criteria?  4 MR. BADALA: Objection to form.  5 Asked and answered.  6 A. That's my understanding, is those  7 are the three criteria. I am not aware of any  8 others that were used.  9 Q. Was a requirement that a  10 prescription be written by a doctor who engaged  11 in unlawful conduct or was prosecuted -- was  12 that one of the criteria that you were aware of?  13 MR. BADALA: Objection to form.  14 Asked and answered.  15 A. That criteria is not spelled out in  16 what I have.  17 Q. And it was not a criteria that a  18 prescription be written for something other than  19 chronic pain, correct?  20 MR. BADALA: Objection to form.  21 A. It was a criteria that they were not  22 cancer patients.  23 Q. So the answer to my question is yes,  24 the criteria was not to find prescriptions that  25 were not written for chronic pain?</p>	<p style="text-align: right;">Page 97</p> <p>1 aware of whether anyone, including experts or  2 others, spoke with any of the doctors or  3 patients on Exhibit A.  4 A. Oh, I'm sorry. Now I understand.  5 MR. BADALA: Same objection.  6 Objection to form. Outside the scope. Asked  7 and answered.  8 A. Once we turned the data over, I'm  9 not aware of what the experts did beyond that to  10 form the answers to the interrogatories.  11 Q. Are you aware of any -- if anyone,  12 experts or others, spoke to any doctors or  13 patients listed on Exhibit A?  14 MR. BADALA: Objection to form.  15 Outside the scope.  16 A. I am not aware of that.  17 Q. Are you aware of whether anyone  18 reviewed, as part of the criteria, any call  19 notes for sales reps in connection with the  20 individuals or prescriptions on Exhibit A?  21 MR. BADALA: Objection to form.  22 Outside the scope.  23 A. The county wouldn't be aware of  24 that. After things were turned over to the  25 attorneys, they consulted with experts, and that</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 wasn't part of the county's process anymore.  2 Q. So is the answer no?  3 MR. BADALA: Objection to form.  4 A. I'm not aware.  5 Q. Did you ask anyone that question?  6 MR. BADALA: Objection to form.  7 Outside the scope.  8 A. I don't know.  9 Q. You don't know if you asked?  10 A. Me personally or the county?  11 Q. I'm asking you, you the county, you  12 as the representative. In connection with your  13 work and your preparation, did you ask anyone if  14 anyone had spoken to a doctor or a patient in  15 connection with the preparation of Exhibit A?  16 MR. BADALA: Objection to form.  17 Outside the scope. Asked and answered.  18 A. Again, when we finished collecting  19 claims data, it was referred over to attorneys,  20 who consulted with experts to formulate  21 responses. The process that was involved to  22 generate those responses the county does not  23 know.  24 Q. So in terms of the three criteria  25 that you talked about, do you know who came up</p>	<p style="text-align: right;">Page 100</p> <p>1 Outside the scope.  2 A. How they identified that this was  3 not a cancer patient?  4 Q. Yes.  5 A. That, I do not know the criteria  6 that they used.  7 Q. And you don't know how they applied  8 the criteria of above 120 MME, do you?  9 MR. BADALA: Objection to form.  10 Outside the scope.  11 MR. CHEFFO: I'm not going to argue  12 with you. How could that possibly be outside  13 the scope? You can say it every single time.  14 It doesn't make it true.  15 MR. BADALA: Are you asking for my  16 view or --  17 MR. CHEFFO: No. I'm just saying I  18 think it's becoming abusive. This is specific  19 within it. You can do it, but we'll take it up  20 with the Special Master.  21 MR. BADALA: It's just that he  22 rewrote it that it's what's the criteria, not  23 how it was applied but what is the criteria.  24 That's what it says. He's giving you the  25 criteria.</p>
<p style="text-align: right;">Page 99</p> <p>1 with those criteria? Was it the county or  2 somebody else?  3 MR. BADALA: Objection to form.  4 Outside the scope.  5 A. I do not know.  6 Q. Do you know how any of those  7 criteria were applied in practice?  8 MR. BADALA: Objection to form.  9 Outside the scope.  10 A. In the selection of claims?  11 Q. Yes.  12 A. They were the basis for identifying  13 the claims for opiates that would be referred to  14 our attorneys.  15 Q. But do you know how they were  16 actually applied? I think we talked about this  17 a little bit earlier.  18 MR. BADALA: Objection to form.  19 Outside the scope.  20 A. They were applied -- I'm sorry.  21 Q. Let's do it again, Doctor.  22 You don't know how any claims  23 information was determined whether it was for a  24 non-cancer patient or not, do you?  25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 101</p> <p>1 MR. CHEFFO: And if that's your  2 position, that that's what you think that a  3 deposition in good faith is supposed to be  4 about, I welcome that.  5 MR. BADALA: That's how Special  6 Master Cohen --  7 MR. CHEFFO: We'll take that up with  8 him very clearly, if you think that's what --  9 MR. BADALA: It's Exhibit B in your  10 notice. It's right there.  11 MR. CHEFFO: That's good. I can  12 read it, too.  13 Q. So do you know how the criteria for  14 above 120 MME was applied?  15 MR. BADALA: Objection to form.  16 Outside the scope.  17 A. 120 MME has a specific definition.  18 I would think that was what was applied. How  19 the criteria was created I do not know other  20 than that would be a dangerous level of  21 prescription opioids on a daily basis.  22 Q. Do doctors -- are they able to  23 prescribe in Cuyahoga County today over 120 MME?  24 MR. BADALA: Objection to form.  25 Outside the scope.</p>

<p style="text-align: right;">Page 102</p> <p>1 A. I don't honestly know the county 2 would know that. 3 Q. Do you prescribe -- 4 A. I'm not a prescriber. 5 MR. BADALA: Were you done with your 6 answer? 7 THE WITNESS: Yeah. 8 Q. So you're not a prescriber, are you? 9 A. No. 10 Q. You said a few times it's dangerous. 11 Have you ever prescribed opioids? 12 A. Yes, I have. 13 Q. When? 14 A. Back in my training as a surgical 15 resident. 16 Q. Was that decades ago? 17 A. Early 1990s. 18 Q. Can doctors in Cuyahoga County today 19 lawfully -- 20 A. Late 1980s. I'm sorry. 21 Q. Can doctors lawfully prescribe 22 opioid medicines above 120 MME? 23 MR. BADALA: Objection to form. 24 Outside the scope. 25 A. I believe the state has set out</p>	<p style="text-align: right;">Page 104</p> <p>1 prescribe -- or you needed to use the Board of 2 Pharmacy database beyond seven days. I don't 3 know if they put an MME on that. And then you 4 were expected to check the Board of Pharmacy 5 database, the Prescription Drug Monitoring 6 Program, every 90 days thereafter if you were 7 continuing to prescribe opioids. 8 So I think they're not, as I 9 understand it, saying it's absolutely forbidden, 10 but it is a practice that needs to be more 11 closely monitored. 12 Q. Do you hold yourself out as an 13 expert in opioids? 14 MR. BADALA: Objection to form. 15 Outside the scope. 16 A. In some aspects of it, sure. 17 Q. Which aspects? 18 MR. BADALA: Objection to form. 19 Outside the scope. 20 A. The opioid crisis. 21 Q. Are you an expert in opioid efficacy 22 in prescribing? 23 MR. BADALA: Objection to form. 24 Outside the scope. 25 A. Again, as the county, I wouldn't</p>
<p style="text-align: right;">Page 103</p> <p>1 criteria with which I am not familiar regarding 2 prescribing of opiates. As I understand them, 3 as the county, those would be specifically with 4 regard to duration, and I don't know that there 5 was a specific MME cap placed on them. I just 6 don't know. 7 Q. Is the answer to my question yes or 8 no? Can a doctor prescribe 120 MME or more 9 today in Cuyahoga County lawfully? 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. It's regulated by the state, so I 13 can't tell you that I remember the criteria, so 14 my answer, not yes or no, is I don't know. 15 Q. Well, you would assume if it was 16 dangerous, then the county wouldn't allow it; 17 isn't that right? 18 MR. BADALA: Objection to form. 19 Outside the scope. 20 A. I think the criteria that we're 21 placed out by the Board of Pharmacy, Board of 22 Medicine and the governor were to caution about 23 the use of excessive opioids. I don't think 24 that they spelled out necessarily that it was 25 impossible to do this. They said you could not</p>	<p style="text-align: right;">Page 105</p> <p>1 answer myself an expert in that. 2 Q. When is the last time you read a 3 label for an opioid product? 4 MR. BADALA: Objection to form. 5 Outside the scope. 6 A. Me personally -- 7 Q. Yes. 8 A. -- or the county? 9 Q. No. You. 10 A. Label for an opioid product, I don't 11 remember. 12 Q. Was it in the last decade? 13 MR. BADALA: Objection to form. 14 Outside the scope. 15 A. I don't remember. Might have been. 16 Q. And with respect to substance abuse 17 disorder, do you know how that criteria was 18 applied? 19 MR. BADALA: Objection to form. 20 Outside the scope. 21 A. No. Beyond the county submission of 22 the claims data, I don't know how that criteria 23 was applied. 24 Q. Do you know if any determination was 25 made as to whether any of the individuals or</p>



<p style="text-align: right;">Page 106</p> <p>1 prescriptions on Exhibit A received a medically 2 unnecessary opioid prescription? 3 A. The county doesn't have a position 4 on whether these were medically unnecessary. 5 Q. What about medically inappropriate? 6 MR. BADALA: Objection to form. 7 A. The county used these criteria to 8 identify the claims that were submitted and 9 doesn't express opinions on medically 10 inappropriate or medically -- the interpretation 11 of a medical opinion. 12 Q. Can you look at Exhibit 2, please, 13 Doctor, page 5? There's not page numbers on 14 this one. 15 A. I can count them. Would this be 1 16 or is this 1 here (indicating)? 17 Q. I don't know. It's -- 18 A. That's very helpful. Okay. Just so 19 we're literally on the same page, this page 20 (indicating)? 21 Q. Exactly. Exactly. 22 A. Sure. 23 Q. And I'm going to just direct your 24 attention to the answer section, second sentence 25 there. I'll read it to save your voice, but it</p>	<p style="text-align: right;">Page 108</p> <p>1 30 seconds ago? 2 MR. BADALA: Objection to form. 3 Mischaracterizes the testimony. 4 A. As I understood your question, you 5 were asking me separate parts of these, and the 6 conjunction here is "or," which means one or all 7 of these. So the county doesn't necessarily 8 have an opinion that a specific prescription was 9 medically unnecessary. It may have been 10 harmful. It may have been unauthorized. 11 Q. But does it have a position that any 12 of them were -- let's start with unauthorized? 13 And if so, show me which ones. 14 MR. BADALA: Objection to form. 15 Outside the scope. 16 A. It is the position that 17 prescriptions identified in Exhibit A were 18 unauthorized. 19 Q. Which ones? 20 A. Again, the county collected the data 21 and referred it to experts for further 22 interpretation of it. 23 Q. What's the basis for that statement 24 that they were unauthorized? 25 MR. BADALA: Objection to form.</p>
<p style="text-align: right;">Page 107</p> <p>1 says, "Bellwether Plaintiffs contend that each 2 prescription identified in Exhibit A" -- that's 3 that big chart in front of you -- was 4 unauthorized, medically unnecessary, ineffective 5 or harmful." 6 Do you see that? 7 A. Yes. 8 Q. And you just told us that the county 9 doesn't have a position on whether something is 10 medically unnecessary or unauthorized, right? 11 A. May have been ineffective or 12 harmful, but -- 13 Q. So the county does not have a 14 position about whether something is medically 15 unnecessary or unauthorized, right? 16 MR. BADALA: Objection to form. 17 A. I think what they say here is that 18 the prescriptions identified there are 19 unauthorized, medically unnecessary, ineffective 20 or harmful. 21 Q. So is that right or wrong? Does the 22 county have a position or not? 23 MR. BADALA: Objection to form. 24 A. The county does have this position. 25 Q. Didn't you say exactly the opposite</p>	<p style="text-align: right;">Page 109</p> <p>1 Outside the scope. 2 A. That they were either, you know, 3 prescribed to someone with a pain disorder or 4 higher. I don't know the criteria that were 5 applied to make that decision. 6 Q. That wasn't one of the criteria, 7 right? 8 MR. BADALA: Objection to form. 9 A. Pardon me? 10 Q. That wasn't one of the three 11 criteria, right? 12 A. What's that? 13 Q. That something was unauthorized. 14 A. No. These are the criteria again 15 for -- not for cancer patients, high dose, or 16 for patients with a diagnosis of substance use 17 disorder. 18 Q. Well, let's talk about each of these 19 then, since you told me they now -- it is the 20 policy. 21 If -- what is the criteria for a 22 prescription identified as Exhibit A, 23 unauthorized? How do we know which one is? 24 What's the criteria? 25 A. I don't personally know. That was</p>

<p style="text-align: right;">Page 110</p> <p>1 collected data which was submitted to the 2 attorneys based on these criteria, and the 3 experts reviewed that for unauthorized -- 4 Q. Well, no. It says here that they 5 were unauthorized. Someone had to make -- use 6 certain criteria. That's what you're here to 7 talk about is the criteria used in connection 8 with these interrogatory responses, and I want 9 to know for each one of these what the criteria 10 is in order to determine whether something was 11 unauthorized. Do you know? 12 MR. BADALA: Objection to form. 13 Asked and answered. 14 A. That's not what the county was 15 doing. That was what was referred to the 16 attorneys with consultation with experts. 17 Q. So the answer is you don't have any 18 idea what criteria was used to determine whether 19 or not something was unauthorized, right? 20 MR. BADALA: Objection to form. 21 A. That would have been a decision from 22 the experts' review. 23 Q. That's not my question, Doctor. 24 As you sit here today under oath, 25 testifying on behalf of the county, do you have</p>	<p style="text-align: right;">Page 112</p> <p>1 refers us back to those -- those prescriptions, 2 right. And I think we've covered unauthorized. 3 You told me you have no idea what the criteria 4 is for determining whether a prescription is 5 unauthorized or not, correct? 6 MR. BADALA: Objection to form. 7 A. I don't know what the criteria were 8 that were applied to the unauthorized because 9 that would have been the consultation with the 10 experts. 11 Q. So the answer, again, is you don't 12 know, right? 13 MR. BADALA: Objection to form. 14 A. The county does not know. 15 Q. And you did not ask anybody, did 16 you? 17 A. We didn't ask anybody what? 18 Q. Did you ask anyone in your 19 preparation for your deposition today, Doctor, 20 hey, what are the criteria for determining 21 whether something is unauthorized or not? Did 22 that subject matter come up, yes or no? 23 A. No. That was, again, a topic that 24 was addressed when these were referred to the 25 attorneys in consultation with their experts.</p>
<p style="text-align: right;">Page 111</p> <p>1 any idea whatsoever what criteria was used with 2 respect to making a determination whether a 3 prescription was unauthorized? 4 MR. BADALA: Objection to form. 5 A. No, I do not. The criteria that 6 were used for the claims that were reviewed are 7 what I've previously enumerated, but the 8 criteria that were used by the experts, I do not 9 have that. 10 Q. Do you know this is used by the 11 experts or this is an answer in an interrogatory 12 that you're supposed to testify about? That's 13 why I'm confused. You keep saying experts. 14 What experts? 15 A. We submitted claims data as the 16 county to our attorneys and they consulted with 17 experts to generate responses to the 18 interrogatories. The county did not 19 specifically generate those responses, though 20 they signed off on them. 21 Q. Okay. We'll talk about that in a 22 few minutes, but your deposition here, one of 23 the topics is about the criteria used for the 24 prescriptions that are on that big chart there, 25 right, and in the interrogatory responses it</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. And I take it if you went through 2 any of those prescriptions in that whole list, 3 you couldn't tell me which ones were 4 unauthorized because you don't know what the 5 criteria are; is that fair? 6 MR. BADALA: Objection to form. 7 A. I could not specifically look 8 through this because it wasn't my expert area to 9 tell you which of these were unauthorized or 10 medically unnecessary or ineffective or harmful. 11 I don't know the criteria that were applied by 12 the consultation -- the experts that our 13 attorneys consulted with. 14 Q. What criteria were used to determine 15 whether a prescription was medically 16 unnecessary? 17 MR. BADALA: Objection to form. 18 Q. Do you know? 19 A. Again, they were referred to the 20 experts and that was their criteria. The county 21 did not have a separate criteria other than 22 their -- 23 Q. Move to strike. 24 I'm going to ask you again, Doctor. 25 What criteria were used to determine whether it</p>



<p style="text-align: right;">Page 114</p> <p>1 was something medically unnecessary? Do you 2 know or do you not know? 3 MR. BADALA: Objection to form. 4 A. Again, I do not know as a 5 representative of the county because those were 6 referred to counsel for consultation with 7 experts in that area. 8 Q. So you can't testify about the 9 criteria as you sit here today, fair? 10 MR. BADALA: Objection to form. 11 A. I cannot. 12 Q. And you didn't ask anybody about the 13 criteria for medically unnecessary prescriptions 14 before coming here to testify, did you? 15 A. No, I did not. 16 Q. And you did not ask anyone about the 17 criteria for what makes a prescription that's on 18 Exhibit A ineffective or not, what the criteria 19 are, correct? 20 A. I'm sorry. I lost my page. 21 Q. Are you with me? 22 A. I'm not because I was trying to go 23 back. 24 Q. It's on 5. It's with those names. 25 A. My apology. I'm sorry. I just lost</p>	<p style="text-align: right;">Page 116</p> <p>1 criteria were? 2 MR. BADALA: Objection to form. 3 A. I'm only aware that the county made 4 me aware that there was a Rawlings who was used. 5 I don't know what other experts were used and I 6 did not speak to any myself personally. I am 7 not sure about other members of the county. 8 Q. How much time did you spend speaking 9 to Rawlings? 10 A. I didn't personally speak to 11 Rawlings. I just became aware that they were an 12 expert that was being used. 13 Q. But you knew that they were one of 14 the entities that was actually making these 15 determinations, right? 16 A. I just learned that, yes. 17 Q. And you didn't talk to them? 18 A. I just learned it this morning. I 19 don't know that I would have talked to them, but 20 I certainly didn't have the opportunity to talk 21 to them in preparation for today. 22 Q. And the same would be true for 23 harmful. You can't tell us what criteria were 24 used to determine whether a prescription that's 25 listed on Exhibit A was harmful, right?</p>
<p style="text-align: right;">Page 115</p> <p>1 my place. 2 Q. That's fine. 3 Same questions for ineffective. I 4 can do it again for you. 5 A. Would you, please? I'm sorry. 6 Q. Sure. 7 You did not ask anyone what the 8 criteria was to determine whether -- criteria 9 were with respect to whether a prescription on 10 Exhibit A was ineffective, right? 11 A. No. That was the referral that we 12 made to the attorneys for the consultation with 13 an expert who could make a decision on that, but 14 the county did not specifically identify the 15 medically unnecessary or any of the other three 16 there. 17 Q. And not only didn't identify, you 18 can't tell me what they are, can you? 19 A. As the county, no, I cannot tell you 20 the criteria that were applied there. 21 Q. You said they referred those to the 22 experts? 23 A. Right. 24 Q. So can you give me a list of all the 25 experts you talked to to find out what those</p>	<p style="text-align: right;">Page 117</p> <p>1 A. No. Again, these were things that 2 the county turned over to its attorneys in 3 consultation with experts who would be able to 4 address that criteria. 5 Q. Did you talk to any of the experts 6 about what was harmful? 7 A. Same answer. I mean, I'm aware only 8 of Rawlings as an expert, but I just found out 9 about that. I did not speak to any specific 10 experts. I didn't know of them. And once the 11 county made the referral in that direction, we 12 didn't pursue that further. That was a topic 13 for expert review. 14 Q. So if I asked you to look through 15 any of those -- any of those names or 16 prescriptions in Exhibit A and said tell me 17 which ones were ineffective, you couldn't do 18 that, could you? 19 MR. BADALA: Objection to form. 20 Outside the scope. 21 A. No, I could not. 22 Q. I couldn't do it either, could I? 23 MR. BADALA: Objection to form. 24 A. I would hope not. Maybe you have 25 hidden talents I don't know about. But no, I</p>

<p style="text-align: right;">Page 118</p> <p>1 could not.</p> <p>2 Q. All right. The only way we would be</p> <p>3 able to do that is if we actually knew what</p> <p>4 criteria were applied, correct?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 A. Right. The experts would have</p> <p>7 applied their criteria.</p> <p>8 Q. And unless we know what the criteria</p> <p>9 is, we can't actually understand which ones are</p> <p>10 ineffective, which ones are harmful, which ones</p> <p>11 are medically unnecessary, right?</p> <p>12 MR. BADALA: Objection to form.</p> <p>13 A. That's my understanding of that,</p> <p>14 yes.</p> <p>15 Q. And you don't have that information</p> <p>16 for us today, do you?</p> <p>17 MR. BADALA: Objection to form.</p> <p>18 Mischaracterizes testimony.</p> <p>19 A. I do not have that information.</p> <p>20 Q. Is it your understanding or</p> <p>21 testimony on behalf of the county that Rawlings</p> <p>22 is an expert?</p> <p>23 A. I just know of their name and that</p> <p>24 that was a group that was reviewing it. I'd</p> <p>25 have to say that we relied on our attorneys to</p>	<p style="text-align: right;">Page 120</p> <p>1 identify claims.</p> <p>2 Q. And they may have had other</p> <p>3 criteria, but that was ancillary to what the</p> <p>4 search criteria were; is that right?</p> <p>5 A. They may have had other conditions,</p> <p>6 I would say, but they did not have other</p> <p>7 criteria that were being applied. These were</p> <p>8 the three criteria used to select the -- to</p> <p>9 identify the claims.</p> <p>10 Q. So it wasn't -- at least in</p> <p>11 selecting those claims, it was not part of the</p> <p>12 process to determine whether any doctor who</p> <p>13 wrote a prescription received information from a</p> <p>14 manufacturer of opioids, correct?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 A. That's not spelled out in the</p> <p>17 criteria that were used to identify the claims.</p> <p>18 Q. And it's not part of the criteria</p> <p>19 that a doctor who wrote any of those</p> <p>20 prescriptions was prosecuted or was under</p> <p>21 investigation for improper conduct, correct?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 A. The criteria are the three that I</p> <p>24 mentioned. Specifically whether a doctor had</p> <p>25 visits from a representative of the</p>
<p style="text-align: right;">Page 119</p> <p>1 identify the expert in that case.</p> <p>2 Q. Let me ask you this, Doctor: Tell</p> <p>3 me everything you know about Rawlings, what you</p> <p>4 think they are, what they do. It sounds like</p> <p>5 you just learned about them this morning.</p> <p>6 A. I just learned about them, so</p> <p>7 honestly, I don't know really much at all about</p> <p>8 them.</p> <p>9 Q. What's the extent of your knowledge?</p> <p>10 A. That they were an entity -- I don't</p> <p>11 even know if it's a person, a group -- who were</p> <p>12 consulted by our attorneys to provide expert</p> <p>13 input into the prescriptions that were reviewed,</p> <p>14 with the purpose of responding to the</p> <p>15 interrogatories.</p> <p>16 Q. So at least in terms of those</p> <p>17 criteria that we talked about, the three, in</p> <p>18 order to make it on the list, is it your</p> <p>19 understanding that they had to satisfy all three</p> <p>20 of those criteria?</p> <p>21 A. The -- just were not a cancer</p> <p>22 patient, high dose -- I'll summarize --</p> <p>23 diagnosed substance use disorder?</p> <p>24 Q. Yes, sir.</p> <p>25 A. Yes, that was the criteria to</p>	<p style="text-align: right;">Page 121</p> <p>1 pharmaceutical industry, whether they were</p> <p>2 prosecuted, those were not independent criteria</p> <p>3 for the identification of claims.</p> <p>4 Q. And I think you said this, Doctor,</p> <p>5 but just sometimes I mishear, so let me make</p> <p>6 sure. They actually have to satisfy all three</p> <p>7 of those, not any one of those three criteria,</p> <p>8 in order to make it on the list, right?</p> <p>9 A. That's my understanding, yes.</p> <p>10 Q. In terms of -- you said earlier that</p> <p>11 there may have been other conditions. Am I</p> <p>12 correct that you're just saying due to just the</p> <p>13 way people see doctors or get conditions, they</p> <p>14 may have had a host of different conditions or</p> <p>15 illnesses, but that wasn't a factor in</p> <p>16 determining whether they were going to be on the</p> <p>17 list or not other than the fact that it was not</p> <p>18 for cancer pain, right?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 A. These were the criteria that were</p> <p>21 used to identify the claims that we submitted to</p> <p>22 our attorneys, and I think, if I remember what I</p> <p>23 said, you know, these individuals could have had</p> <p>24 other conditions, but these were the criteria</p> <p>25 that were used to identify the claims we</p>

<p style="text-align: right;">Page 122</p> <p>1 submitted to our attorneys.  2 Q. Okay. And just to make sure we're  3 clear, so those are the only three criteria,  4 right?  5 A. Yes.  6 Q. You're not aware of how they came  7 about or who devised them, right?  8 A. I did not devise them and I do not  9 know who devised them, yes.  10 Q. And no one in the course of your  11 preparation told you who was responsible for  12 those criteria, right?  13 A. No, they did not.  14 Q. And you don't know how they were  15 implemented in terms of kind of matching up  16 those criteria to actual claims and information,  17 right? Someone else did that work, right?  18 MR. BADALA: Objection to form.  19 Outside the scope.  20 A. I -- as I tried to say earlier,  21 certainly in other definitions of these that  22 could have been applied, but the specific  23 application of those, I do not know for certain.  24 Q. And even with respect to something  25 that seems clear, like it says not for cancer</p>	<p style="text-align: right;">Page 124</p> <p>1 MR. BADALA: Objection to form.  2 A. I don't know for certain.  3 Q. You couldn't go through any of the  4 list in front of you in Exhibit A and tell me  5 categorically all these people never had cancer,  6 could you?  7 A. It would be pretty good if I could  8 do that. I don't think so. As I would  9 understand, cancer patient would be an active  10 problem, but I can't say that for certain.  11 Q. In order to understand that, you  12 would want to see how it was defined and what  13 exact criteria was used, right, because then  14 that would help you understand how the selection  15 process worked?  16 MR. BADALA: Objection to form.  17 A. It would be helpful, yes.  18 Q. It would be essential, wouldn't it?  19 MR. BADALA: Objection to form.  20 A. As I say, I don't know that I could  21 tell you how the identification was made not for  22 cancer patients, but I do know that the claims  23 were identified with that criteria. I just  24 don't, as I sit here, have the capacity to tell  25 you how they ruled out the patients who did have</p>
<p style="text-align: right;">Page 123</p> <p>1 pain, do you see that?  2 A. Not for cancer patients.  3 Q. Cancer patients, right. So does  4 that mean somebody -- do you know -- whether --  5 is currently having an acute problem from cancer  6 or do you know whether it would include people  7 who have cancer in remission?  8 MR. BADALA: Objection to form.  9 A. They were not cancer patients. I  10 don't know if it was specifically they had a  11 history of cancer or if it was whether they had  12 an active cancer. Again, I can give you my  13 opinion as an individual, but I don't want to  14 speak for the county, that it would not have  15 been people who had a history with cancer  16 because it wouldn't be an active problem.  17 Q. But the point of what we're talking  18 about at least on this is we're trying to  19 understand the criteria used to generate Exhibit  20 A, and I think what you're telling me is you  21 don't know, even with respect to cancer, whether  22 they were trying to find people who were not  23 active cancer patients or whether they excluded  24 anyone who never had cancer? You just don't  25 know the answer, right?</p>	<p style="text-align: right;">Page 125</p> <p>1 cancer.  2 Q. And substance abuse disorder, does  3 that include people who ever had a diagnosis or  4 is it people who are currently in treatment for  5 substance abuse disorder or is it people who  6 have a family history for substance abuse  7 disorder? Do you know?  8 MR. BADALA: Objection to form.  9 A. I don't know the definition. I  10 could give you my impression, but I don't know  11 that that's really representing the county.  12 Q. I'm only asking -- you know, you're  13 here to testify on behalf of the county as to  14 what those criteria mean. And other than what  15 you've told me, you can't tell me whether  16 individuals who previously had a substance abuse  17 disorder or currently had a substance abuse  18 disorder or have a family history of substance  19 abuse disorder are encompassed within that  20 criteria; is that fair?  21 MR. BADALA: Objection to form.  22 A. Fair.  23 Q. And even as to the 120 MME, you  24 can't tell me whether that includes people who  25 are downwardly titrating or tapering, whether</p>

<p style="text-align: right;">Page 126</p> <p>1 it's used for methadone, whether it's used for 2 some other opioid therapy to help addiction, you 3 just don't know, right? 4 MR. BADALA: Objection to form. 5 A. It's 120 MME. I don't know what 6 direction the person would have been in in their 7 treatment or what specific medication would have 8 been used other than it would have a correlate 9 as an MME. 10 Q. Do you know as to any of the people 11 whether the prescription was manufactured or 12 distributed by one of the Defendants in this 13 case? 14 A. I don't know that for certain. 15 MR. CHEFFO: Can we take a short 16 break? 17 MR. BADALA: Yes. 18 THE VIDEOGRAPHER: Off the record at 19 11:23. 20 (Recess had.) 21 - - - - - 22 (Thereupon, Gilson Deposition 23 Exhibit 7, Handwritten Notes, was 24 marked for purposes of 25 identification.)</p>	<p style="text-align: right;">Page 128</p> <p>1 had conditions or diagnoses appropriately 2 treated with opioids or prescribing dangerously 3 high dosages of opioids." I won't read the list 4 of the people who were prosecuted, but I think 5 that spells out the criteria that were used as 6 medically unnecessary. 7 The next paragraph below the last 8 guy's name is the criteria that were used to say 9 that these were ineffective. The "Bellwether 10 Plaintiffs further contend that prescriptions or 11 reformulated OxyContin, Hysingla ER, Opana ER, 12 Exalgo, and Xartemis XR listed in Exhibit A were 13 ineffective in that they did not prevent 14 tampering, were not actually abuse-deterrent, 15 and did not prevent oral abuse, despite the 16 manufacturers' representations to the contrary." 17 And, lastly, "Bellwether Plaintiffs 18 further contend that by misrepresenting the 19 risks, benefits, and superiority of opioids, 20 particularly for use long-term and at high 21 doses, including, but not limited to, through 22 sales visits, continued medical education and 23 speaker programs, publications and websites, and 24 treatment guidelines, Manufacturer Defendants 25 deprived prescribers and patients of the ability</p>
<p style="text-align: right;">Page 127</p> <p>1 - - - - - 2 (Thereupon, Gilson Deposition 3 Exhibit 8, Handwritten Notes, was 4 marked for purposes of 5 identification.) 6 - - - - - 7 THE VIDEOGRAPHER: Back on the 8 record at 11:48 a.m. 9 A. If I could, another clarification 10 into the record. 11 In our last area, I was looking at 12 Exhibit 2 on the break, where you had asked me 13 about how we had defined unauthorized, medically 14 unnecessary, ineffective or harmful. And I did 15 not have a chance to review the entire page 16 there, but I believe the answers to those 17 questions are here in the continuation, and I'd 18 like to read those into the record, that "The 19 basis for assertion that these prescriptions 20 were medically unnecessary is that the 21 healthcare providers listed below and in Exhibit 22 A were prosecuted or the subject of disciplinary 23 actions for their illegal or improper 24 prescribing of opioids, for example, without 25 examining patients or determining whether they</p>	<p style="text-align: right;">Page 129</p> <p>1 to make informed choices about whether, when and 2 which opioids to use -- to prescribe and use, 3 for how long, and at what doses. Though 4 Defendants do not define 'unauthorized,' 5 'medically unnecessary,' or 'harmful,' 6 Bellwether Plaintiffs contend that Defendants' 7 misstatements regarding the benefits and very 8 significant risks of opioids and the 9 redefinition of the standard of care to include 10 opioids rendered the prescriptions unauthorized, 11 unnecessary and harmful in that they were 12 prescribed and taken without full and accurate 13 information." 14 Q. You met with the lawyers on the 15 break? 16 A. Yes, I did. 17 Q. You know we've discussed for a few 18 hours now various criteria, and you told me, I 19 think, probably at least a half a dozen times, 20 if not more, that there are three only. Do you 21 remember that testimony? 22 A. Yes, I do. 23 MR. BADALA: Objection to form. 24 Q. So is that still true? 25 A. These were the criteria that were</p>

<p style="text-align: right;">Page 130</p> <p>1 identified -- that were used to identify the  2 claims, and then what I was just reading are the  3 bases for the contention that these were  4 unauthorized, medically unnecessary, et cetera,  5 harmful.  6 Q. Did you know any of that information  7 before about 20 minutes ago?  8 MR. BADALA: Objection to form.  9 I instruct you not to disclose any  10 conversations you might have had with the  11 attorneys. It's pretty clear in the deposition  12 protocol.  13 Q. You can answer.  14 A. I read them at the break because I  15 was unable to kind of read beyond that  16 statement, and that's when I found the terms and  17 just wanted to clarify them.  18 Q. So do all those terms apply to all  19 of the prescriptions and individuals?  20 MR. BADALA: Objection to form.  21 A. The terms are -- the criteria for  22 those terms are spelled out in the answer to the  23 interrogatory as it relates back to topic 6.  24 Q. If I ask you questions about this,  25 other than what's in the interrogatory response,</p>	<p style="text-align: right;">Page 132</p> <p>1 prescriptions were written by one of these  2 doctors listed in the exhibit; do you know?  3 MR. BADALA: Objection to form.  4 Document speaks for itself.  5 A. As I understood what I just read,  6 the criteria, namely, that they were  7 medically -- let me just go back and read it.  8 Give me a second.  9 Q. So you're only going to be able to  10 answer my questions by reading the  11 interrogatories; is that right?  12 MR. BADALA: Objection to form.  13 A. I would like to give you a good  14 answer, so I'd like to read them.  15 Exhibit A was unauthorized,  16 medically unnecessary, or ineffective or  17 harmful, and then the next sentence is the basis  18 for the assertion that these were medically  19 unnecessary is because of these healthcare  20 providers in Exhibit A being prosecuted or  21 disciplined.  22 Q. So does that mean that every  23 prescription on the list was written by one of  24 those doctors?  25 A. I would --</p>
<p style="text-align: right;">Page 131</p> <p>1 do you have any personal knowledge or have you  2 done any preparation to respond to any of those  3 questions?  4 MR. BADALA: Objection to form.  5 Asked and answered.  6 A. I've reviewed a lot of, you know,  7 papers and forms. I can't tell you I remember  8 everything. As I say, I didn't remember if I  9 saw this before. I don't think I did, but --  10 Q. But, Doctor, we've spent a few hours  11 now and I've asked you many, many times about  12 criteria, so are those new criteria that we need  13 to go back and talk to you about, or did -- the  14 criteria that you've been telling me about for  15 two hours, do they still apply?  16 MR. BADALA: Objection to form.  17 A. As I said when I clarified the  18 record, on reviewing these, I came to understand  19 how those terms were used. When we spoke  20 before, I didn't have that information, as I  21 hadn't read the entire page there, but I think  22 it clarified the questions you were asking me.  23 Q. Let me ask you some questions about  24 it then.  25 Does that mean that all of the</p>	<p style="text-align: right;">Page 133</p> <p>1 MR. BADALA: Objection to form.  2 Outside the scope.  3 A. I would interpret that as the  4 medically unnecessary ones that we talked about.  5 Remember, it's the OARRS, so they don't all have  6 to be all four, but this was the definition used  7 for medically unnecessary.  8 Q. And you can't tell me what the  9 criteria are as to whether something is  10 medically unnecessary other than you telling me  11 that it was written by one of these doctors,  12 right?  13 MR. BADALA: Objection to form.  14 A. Well, and these doctors were  15 prosecuted or subject to disciplinary action.  16 Q. Which prescriptions did they write  17 on the list; do you know?  18 A. On this list?  19 Q. Yes.  20 A. I believe the prescribers are  21 listed. I don't want to take up your time  22 trying to find each name there.  23 Q. Okay. So a criteria for medically  24 unnecessary is that they were written by one of  25 these doctors?</p>



<p style="text-align: right;">Page 134</p> <p>1 A. Right. "The basis for the assertion 2 that these prescriptions were medically 3 unnecessary is that the healthcare providers 4 listed below were prosecuted or the subject of 5 disciplinary action for their illegal or 6 improper prescribing of opioids." 7 Q. Did you talk to anybody about any of 8 the circumstances for any of the prosecutions or 9 any of the prescriptions? 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. I spoke with a prosecutor about 13 prosecutions in general, but I did not 14 specifically talk about any of these individuals 15 named here in the interrogatory. 16 Q. Do you know whether all of their 17 prescriptions were determined to be medically 18 unnecessary or only certain prescriptions -- 19 MR. BADALA: Objection to form. 20 Q. -- in determining the criteria? 21 A. I would just point back that they 22 were prosecuted for improper prescribing of 23 opioids. 24 Q. But if they wrote a prescription -- 25 MR. BADALA: Were you done with your</p>	<p style="text-align: right;">Page 136</p> <p>1 reading this for the first time 15 minutes ago? 2 MR. BADALA: Objection. 3 Mischaracterizes testimony. 4 A. As I said, I've read a lot of 5 things. I don't remember reading this. So my 6 best answer to you is I remember reading it, you 7 know, within the last half hour, but I don't 8 know if I saw that before. 9 Q. So were all of the prescriptions 10 written on Exhibit A written by the doctors 11 listed in this response? 12 MR. BADALA: Objection to form. 13 Outside the scope. 14 A. As I understand it, the ones that 15 were defined as medically unnecessary were 16 written by these individuals. There are other 17 criteria in the topic, as I read it, which is 18 unauthorized, medically unnecessary, ineffective 19 or harmful, so I would say that the ones that 20 were written by these, the claim, as I 21 understand it, is that they were medically 22 unnecessary. 23 Q. Let's go then one by one. 24 So medically unnecessary. Are there 25 any other criteria other than they were written</p>
<p style="text-align: right;">Page 135</p> <p>1 answer? 2 THE WITNESS: No, I was not. Could 3 I finish? 4 MR. BADALA: Finish your answer. 5 A. It doesn't, as I read this, 6 specifically say every prescription, but that 7 they were prosecuted for improper prescribing of 8 opioids. It doesn't specify whether every 9 prescription they wrote was improper or whether 10 some were. That's not how I'm reading that. 11 Q. Well, is there any way for us to 12 differentiate? 13 MR. BADALA: Objection to form. 14 Q. How would we know whether this 15 includes prescriptions before they were 16 prosecuted or after they were prosecuted? 17 MR. BADALA: Objection to form. 18 A. I think these prescriptions are the 19 ones that they are being prosecuted for. 20 Q. Do you know? 21 A. That's my reading of this. 22 Q. Do you know? 23 MR. BADALA: Objection to form. 24 A. That's my understanding. 25 Q. And your understanding is based on</p>	<p style="text-align: right;">Page 137</p> <p>1 by one of these doctors? 2 A. I have to go back to what it says, 3 that the basis for the assertion they were 4 medically unnecessary is that these doctors were 5 prosecuted or subject to disciplinary actions 6 for illegal or improper prescribing. 7 Q. Any other criteria? 8 A. Not that I'm seeing here. I mean, 9 I'm relying on this document. 10 Q. You didn't do any work to answer 11 that question, did you? 12 MR. BADALA: Objection to form. 13 Mischaracterizes testimony. 14 A. This would have been something our 15 experts would have identified as medically 16 unnecessary. 17 Q. And I just want to go through each 18 one. We have limited time. 19 For medically unnecessary, is it 20 your testimony the only criteria that you're 21 aware of is that it was written by one of these 22 doctors? 23 MR. BADALA: Objection to form. 24 Mischaracterizes testimony. 25 A. Who were prosecuted or disciplined</p>

<p style="text-align: right;">Page 138</p> <p>1 for their activities.</p> <p>2 Q. What about ineffective?</p> <p>3 A. Ineffective I think is defined</p> <p>4 further down in the paragraph just below Jerome</p> <p>5 Yokiel, Bellwether Plaintiffs further contend</p> <p>6 that prescriptions of reformulated OxyContin,</p> <p>7 Hysingla ER, Opana ER, Exalgo ER {sic} and</p> <p>8 Xartemis ER {sic} listed in Exhibit A were</p> <p>9 ineffective in that they did not prevent</p> <p>10 tampering, were not actually abuse-deterrent,</p> <p>11 and did not prevent oral abuse despite</p> <p>12 Manufacturers' representations to the contrary.</p> <p>13 Q. Other than reading those responses,</p> <p>14 do you have any independent knowledge, based on</p> <p>15 any work that you did or people that you talked</p> <p>16 to, in connection with the criteria used for</p> <p>17 whether something was unauthorized, medically</p> <p>18 unnecessary, ineffective or harmful?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 A. I know that some of these</p> <p>21 formulations with which I am familiar were not</p> <p>22 abuse-deterrent formulations.</p> <p>23 Q. That's not my question.</p> <p>24 Other than reading from that</p> <p>25 document that you saw 15 minutes ago, do you</p>	<p style="text-align: right;">Page 140</p> <p>1 of this, so I can't speak to that.</p> <p>2 Q. So if you look at Exhibit 2, there's</p> <p>3 not doctors listed for every one. Do you know</p> <p>4 that? Do you know or not, Doctor?</p> <p>5 A. You know, this is an incredibly long</p> <p>6 document, and I have to tell you I don't know.</p> <p>7 Q. Okay.</p> <p>8 A. I don't know that that's untrue. I</p> <p>9 don't know that that's true. I haven't had the</p> <p>10 time to review this. And I don't want to get</p> <p>11 into what I initially brought back, again, of</p> <p>12 saying I reviewed a document that I didn't have</p> <p>13 the time to review and tell you that no, there's</p> <p>14 not a prescriber listed for everything here. I</p> <p>15 do not know.</p> <p>16 Q. So there's a list of -- this is</p> <p>17 Exhibit B. It's in there. Do you see this?</p> <p>18 MS. ROITMAN: It's in the back of</p> <p>19 Exhibit 2.</p> <p>20 MR. BADALA: Oh, behind the big</p> <p>21 spreadsheet?</p> <p>22 MS. ROITMAN: Yes.</p> <p>23 MR. BADALA: All the way back. Go</p> <p>24 back to the 8 and a half by 11.</p> <p>25 Q. So in connection with topic 19 and</p>
<p style="text-align: right;">Page 139</p> <p>1 have independent knowledge, based on your review</p> <p>2 as a 30(b)(6) witness, of whether prescriptions</p> <p>3 were unauthorized, medically unnecessary,</p> <p>4 ineffective or harmful?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 A. I'm sorry. I thought I answered</p> <p>7 your question in that using the criteria, that</p> <p>8 these were actually abuse deterrent. I am</p> <p>9 familiar, as an individual and a representative</p> <p>10 of the county, that certain formulations here</p> <p>11 are not abuse-deterrent formulations.</p> <p>12 Q. So if they're not abuse-deterrent</p> <p>13 formulations, what does that mean?</p> <p>14 A. Plaintiffs further contend that the</p> <p>15 prescription of reformulated drugs were</p> <p>16 ineffective in that they do not prevent</p> <p>17 tampering, were not actually abuse-deterrent, et</p> <p>18 cetera.</p> <p>19 Q. So if there were prescriptions on</p> <p>20 the list that were not written by any of these</p> <p>21 doctors, does that mean that they're medically</p> <p>22 necessary?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 Outside the scope.</p> <p>25 A. I did not conduct the expert review</p>	<p style="text-align: right;">Page 141</p> <p>1 interrogatory 7, you refer to this document. Do</p> <p>2 you know what this is?</p> <p>3 A. I have not seen this before.</p> <p>4 Q. Do you know what the criteria are</p> <p>5 for any of the people who are on this list?</p> <p>6 A. It says that they all died from an</p> <p>7 overdose death so far as -- if you'll give me</p> <p>8 time to read through to the end.</p> <p>9 Q. Do you know what substances were</p> <p>10 certified --</p> <p>11 A. I'm sorry. Just give me a second,</p> <p>12 please.</p> <p>13 Q. Sure.</p> <p>14 A. Okay. I'm sorry.</p> <p>15 Q. Do you know what substances were</p> <p>16 certified as the cause of death?</p> <p>17 MR. BADALA: Objection to form.</p> <p>18 A. For all of these?</p> <p>19 Q. Yes.</p> <p>20 A. I don't know what the death</p> <p>21 certificates read.</p> <p>22 Q. Or any of them, right? You don't</p> <p>23 know?</p> <p>24 A. I don't have that information, no.</p> <p>25 Q. Do you know whether these people had</p>



<p style="text-align: right;">Page 142</p> <p>1 a diagnosis of opioid use disorder?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 A. Are these the claims that were</p> <p>4 referred, because that was one of the criteria</p> <p>5 that we used for referrals?</p> <p>6 Q. Well, you're here to tell me,</p> <p>7 Doctor.</p> <p>8 A. Again, I have to say, you know, I</p> <p>9 read a lot of documents. I don't know if these</p> <p>10 are the names -- some of these are from Summit</p> <p>11 County, which I don't speak for. I can't tell</p> <p>12 you, you know, again, if all of these folks had</p> <p>13 a diagnosis of substance use disorder and --</p> <p>14 Q. I guess what I'm trying to find --</p> <p>15 this is in response to topic 19, "The criteria</p> <p>16 used by Plaintiffs to identify individuals who</p> <p>17 overdosed on, or became addicted to,</p> <p>18 prescription opioids in Plaintiff's geographic</p> <p>19 area." Do you see that?</p> <p>20 MR. BADALA: I think you're</p> <p>21 referring to the depo notice.</p> <p>22 MR. CHEFFO: Yes.</p> <p>23 MR. BADALA: He's referring to this</p> <p>24 Exhibit 1.</p> <p>25 THE WITNESS: Okay.</p>	<p style="text-align: right;">Page 144</p> <p>1 list of individuals in that 500 claims, those</p> <p>2 were the criteria that were used, the three that</p> <p>3 I mentioned.</p> <p>4 Q. In the overdose deaths?</p> <p>5 A. Pardon?</p> <p>6 Q. Overdose deaths. Does that criteria</p> <p>7 apply -- are those the only three criteria that</p> <p>8 apply to the overdose deaths that are</p> <p>9 articulated in topic 19?</p> <p>10 A. The claims that were identified all</p> <p>11 have those three criteria.</p> <p>12 Q. What about the overdose deaths?</p> <p>13 A. If they were identified as claims by</p> <p>14 the county, then they would have met those</p> <p>15 criteria.</p> <p>16 Q. Putting aside whether they were</p> <p>17 claims or not, what's the criteria for the</p> <p>18 individuals who were on Exhibit B?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 Asked and answered.</p> <p>21 Q. Do you know anything other than the</p> <p>22 three criteria you've been telling us about this</p> <p>23 morning?</p> <p>24 A. No. Those were the criteria that I</p> <p>25 was told were used to identify claims.</p>
<p style="text-align: right;">Page 143</p> <p>1 Q. And in response to that, we received</p> <p>2 this document, right? The first few pages talk</p> <p>3 about Summit, but if you go to the third and</p> <p>4 fourth page, or fifth page, it's Cuyahoga.</p> <p>5 A. Right.</p> <p>6 Q. So, as the topic says, could you</p> <p>7 tell us what criteria were used to identify</p> <p>8 these individuals?</p> <p>9 A. The criteria that we used to</p> <p>10 identify claims for opioids were, again, not</p> <p>11 cancer patients, higher dose, higher than 120</p> <p>12 MME, and patients with a diagnosed substance use</p> <p>13 disorder.</p> <p>14 Q. But this is different. This is --</p> <p>15 again, you have to read the paragraph. It says,</p> <p>16 "The criteria used by Plaintiffs to identify</p> <p>17 individuals who overdosed on, or became addicted</p> <p>18 to, prescription opioids." That's why there's</p> <p>19 individual people listed here. Are you telling</p> <p>20 me that that's the same criteria?</p> <p>21 A. Those were the criteria used for the</p> <p>22 response to the interrogatory.</p> <p>23 Q. To this, B?</p> <p>24 A. Again, I don't recognize this list</p> <p>25 right off the top of my head, but if this is the</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. And individuals?</p> <p>2 A. And to identify individuals or --</p> <p>3 yeah, individuals, I guess prescriptions or</p> <p>4 individuals.</p> <p>5 Q. And people who overdosed?</p> <p>6 A. I'm out in the weeds a little with</p> <p>7 what you're saying.</p> <p>8 Q. Really, Doctor? Maybe I'm not doing</p> <p>9 a good job about it. What does 19 say? Can you</p> <p>10 just read that out loud?</p> <p>11 A. "The criteria used by Plaintiffs to</p> <p>12 identify individuals who overdosed on, or became</p> <p>13 addicted to, prescription opioids in the</p> <p>14 Plaintiff's geographic area."</p> <p>15 Q. That's all I want to know is what's</p> <p>16 the criteria.</p> <p>17 A. How did we identify the overdose</p> <p>18 deaths or the ones who became addicted to</p> <p>19 prescription opioids?</p> <p>20 Q. Either.</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 A. The overdose deaths are, you know,</p> <p>23 searchable in the database either in our office</p> <p>24 or in Summit County, and those overdose deaths</p> <p>25 would meet these criteria.</p>

<p style="text-align: right;">Page 146</p> <p>1 Q. What criteria?</p> <p>2 A. The three criteria we keep</p> <p>3 mentioning.</p> <p>4 Q. Oh, they would? The overdose deaths</p> <p>5 would all meet those criteria?</p> <p>6 A. If they were submitted for claims,</p> <p>7 identified claims --</p> <p>8 Q. Putting aside claims; a separate</p> <p>9 issue, overdose and addiction. What are the</p> <p>10 criteria for determining whether someone made it</p> <p>11 on the list that we've been looking at? Do you</p> <p>12 know?</p> <p>13 THE WITNESS: Can I take a break? I</p> <p>14 have to tinkle really. I'll be right back,</p> <p>15 though.</p> <p>16 THE VIDEOGRAPHER: Off the record at</p> <p>17 12:08 p.m.</p> <p>18 (Recess had.)</p> <p>19 THE VIDEOGRAPHER: Back on the</p> <p>20 report at 12:11 p.m.</p> <p>21 A. Much obliged. That was a necessary</p> <p>22 break.</p> <p>23 Q. Understood.</p> <p>24 We've talked a lot about claims data</p> <p>25 and you've told me that there are three criteria</p>	<p style="text-align: right;">Page 148</p> <p>1 A. Overdose deaths -- I mean, I don't</p> <p>2 know how Summit County works. In our office we</p> <p>3 would define those as deaths with a death</p> <p>4 certificate including an opioid on it.</p> <p>5 Q. Is that the criteria that was used?</p> <p>6 A. That, I do not know. Again, I think</p> <p>7 this was something that was generated by experts</p> <p>8 in response --</p> <p>9 Q. No. Doctor, it says -- Doctor, I'm</p> <p>10 asking about the criteria, and if you -- let's</p> <p>11 not -- you know, if you don't know, all you have</p> <p>12 to do is just say, "I'm not prepared, I don't</p> <p>13 know the answer." If you do know, I'm not</p> <p>14 asking you about experts or anybody else who</p> <p>15 looked at it. I'm just asking, I think, a very</p> <p>16 fair question, which is, do you know what</p> <p>17 criteria were used in order to determine if</p> <p>18 somebody made it on this list as an overdose</p> <p>19 death? Yes or no. Do you have personal</p> <p>20 knowledge of that?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 Asked and answered.</p> <p>23 A. Right now, no, I do not.</p> <p>24 Q. Okay. And the same would be true</p> <p>25 for somebody who was addicted who made it on</p>
<p style="text-align: right;">Page 147</p> <p>1 only, right? Correct?</p> <p>2 A. Right.</p> <p>3 Q. I'm going to put that aside. Then</p> <p>4 there were some interrogatories and topics that</p> <p>5 talked about people who overdosed and people who</p> <p>6 became addicted.</p> <p>7 A. Okay. Right. That's topic 19.</p> <p>8 Q. Is it fair to say -- you didn't do</p> <p>9 any preparation for that topic, did you?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 A. Other than to familiarize myself</p> <p>12 with the criteria and that they were submitted</p> <p>13 to attorneys from the county for review in</p> <p>14 consultation with experts to generate lists that</p> <p>15 were provided to answer these interrogatories,</p> <p>16 no, I did not actively participate.</p> <p>17 Q. No. No. I'm not asking if you</p> <p>18 actively participated at all. So I'm just</p> <p>19 trying to find out -- you said you know the</p> <p>20 criteria. What are the criteria to determine if</p> <p>21 somebody should be on a list for either being</p> <p>22 opioid addicted or an overdose death</p> <p>23 attributable to opioids?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 Q. Do you know?</p>	<p style="text-align: right;">Page 149</p> <p>1 this list; you do not know what criteria were</p> <p>2 used, correct?</p> <p>3 MR. BADALA: Which list? I'm sorry.</p> <p>4 Which list are you referring to?</p> <p>5 MR. CHEFFO: On the -- the list of</p> <p>6 people who were opioid addicted.</p> <p>7 MR. BADALA: We're talking about B?</p> <p>8 MR. CHEFFO: Yes.</p> <p>9 MR. BADALA: Exhibit B.</p> <p>10 Q. Do you know, Doctor?</p> <p>11 A. Again, my information is that the</p> <p>12 500 patients who were identified, and I do not</p> <p>13 know if that includes this group, were</p> <p>14 identified with those criteria, the three</p> <p>15 criteria which I keep mentioning.</p> <p>16 Q. Do you know anything about people</p> <p>17 who were identified as being addicted?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 A. If they were on that list of 500, I</p> <p>20 would say they had -- these criteria applied to</p> <p>21 them.</p> <p>22 Q. You're sure of that?</p> <p>23 A. The list of 500?</p> <p>24 Q. That's your testimony under oath,</p> <p>25 that if they were on the list of addicted, those</p>

<p style="text-align: right;">Page 150</p> <p>1 three apply? Because if it's yes, we'll move  2 on. Is that your testimony?  3 MR. BADALA: Objection to form.  4 Outside the scope.  5 A. The claims data that was submitted  6 to the attorneys --  7 Q. I'm not talking about claims data.  8 A. -- included those three criteria.  9 Q. I'm talking about people who were  10 listed as opioid addicted. Are those the  11 criteria that were used to determine whether  12 they were opioid addicted?  13 MR. BADALA: Objection to form.  14 A. I don't know that I understand what  15 you're asking me.  16 Q. What don't you understand?  17 A. The interrogatories spelled out --  18 or I was told there were criteria here, that the  19 county provided patients with this name -- with  20 the names based on whether they had -- did not  21 have -- were not cancer patients, had a high  22 dose, or -- and -- not or, and they were  23 diagnosed with a substance use disorder. Those  24 claims, which would include addicted and  25 overdose deaths, were referred over to our</p>	<p style="text-align: right;">Page 152</p> <p>1 addicted? You wouldn't know that either, would  2 you?  3 MR. BADALA: Objection to form.  4 A. Solely on these three criteria?  5 Q. Right.  6 A. This, again, is a basis for  7 selection, and that's what we refer from the  8 county. Beyond that, you know, you would have  9 to do a consultation to determine those  10 questions you asked.  11 Q. You would have to look at other  12 criteria, right?  13 MR. BADALA: Objection to form.  14 A. I don't know what went into the  15 experts' determinations of this.  16 Q. You don't even know if there were  17 experts who made these determinations, do you?  18 MR. BADALA: Objection to form.  19 A. I was informed that when the county  20 turned over its list of 500 names to the  21 attorneys, that they would be consulting with  22 experts to determine claims data and share  23 that --  24 Q. And what happened?  25 A. -- and in response to the</p>
<p style="text-align: right;">Page 151</p> <p>1 attorneys for consultation with experts, and  2 that's the basis of these responses. And I do  3 not know, to answer you, what criteria the  4 experts used, but if they were drawing that from  5 our claims data, these folks would have met  6 those three criteria.  7 Q. So is it your testimony there may  8 have been other criteria that's used?  9 MR. BADALA: Objection to form.  10 Misstates his testimony.  11 A. I think I've answered that before,  12 that these are the three criteria that were  13 used.  14 Q. That's it?  15 A. There may be other conditions, as I  16 say, but criteria were these.  17 Q. And you think that if they meet  18 those criteria, you could determine whether  19 someone was -- I mean, how would you even know  20 if they were dead based on those criteria?  21 MR. BADALA: Objection to form.  22 A. I don't think you would.  23 Q. You wouldn't, would you?  24 A. No.  25 Q. How would you know if they were</p>	<p style="text-align: right;">Page 153</p> <p>1 interrogatories.  2 Q. And what happened after that, what  3 criteria, who was consulted, how it was applied,  4 you have no information, do you?  5 MR. BADALA: Objection to form.  6 Misstates testimony.  7 A. Unless we're going back to Exhibit  8 2, with the things about what constituted  9 medically unnecessary, harmful -- I forget the  10 other two -- those are spelled out in this  11 document.  12 Q. Can you tell me everything that the  13 Plaintiffs did, if anything, to identify whether  14 prescribers who wrote any of the prescriptions  15 on Exhibit A relied in any way on anything any  16 Defendant did or said?  17 MR. BADALA: Objection to form.  18 Are you talking about Cuyahoga  19 County? You said Plaintiffs.  20 MR. CHEFFO: Yes, Cuyahoga County,  21 sure.  22 A. Sorry.  23 Q. Tell me everything that Cuyahoga  24 County did, if anything, to determine whether  25 prescribers who wrote the prescriptions on</p>

<p style="text-align: right;">Page 154</p> <p>1 Exhibit A relied in any way on anything any 2 Defendant ever did or said. 3 MR. BADALA: Objection to form. 4 A. I don't know. I mean, I don't know 5 what wasn't covered in the investigation of the 6 prosecutions of the medically unauthorized 7 folks, so -- 8 Q. And just before we leave this, with 9 respect to interrogatories -- I'm sorry. With 10 respect to topics 19 and 4, are you aware of any 11 other criteria that were used in order to 12 determine any of who those claims or individuals 13 were or is it just the three we've been talking 14 about? 15 MR. BADALA: Objection to form. 16 Mischaracterizes testimony. 17 A. The basis for the claims were the 18 three criteria that I applied. Those were the 19 claims that were submitted to the attorneys for 20 review. 21 Q. Topic 3 you've also been designated 22 on. I want to see if we can cover it briefly. 23 "Plaintiffs' knowledge of: (a) concerns or 24 complaints made to them and by them about any 25 promotion, marketing or educational activities</p>	<p style="text-align: right;">Page 156</p> <p>1 because we were becoming concerned about the 2 role of prescription opioids in the creation of 3 our heroin crisis and subsequent fentanyl 4 crisis. 5 At those educational activities or 6 town halls or things like that, I frequently 7 spoke to physicians, who conveyed to me -- if 8 they were older, they said they were concerned 9 about the safety of these drugs and were 10 reassured that the addiction potential of opioid 11 prescription pain relievers was low, less than 1 12 percent. In speaking to younger physicians, 13 they were told that the inadequate treatment of 14 pain would be something they might be subject to 15 discipline for and that they would not run the 16 risk of addicting patients to opioids if they 17 had not controlled their pain. 18 So I think those were statements 19 that were misrepresentations of the actual harm 20 that the opioids could potentially cause, and 21 those are complaints I'm hearing from 22 communities. That's anecdotally I realize, but 23 it was such a consistent thing whenever I spoke 24 to prescribers. 25 Q. I move to strike.</p>
<p style="text-align: right;">Page 155</p> <p>1 with respect to prescription opioids within or 2 relating to Plaintiff's geographic area; and 3 actions taken by them or others in response to 4 those concerns." 5 Do you see that? 6 A. Yes, I do. 7 Q. Are you prepared to testify about 8 that? 9 A. Yes, I am. 10 Q. Okay. What knowledge does Cuyahoga 11 have about concerns or complaints made to it or 12 by it about any promotion, marketing or 13 educational activities? 14 MR. BADALA: Objection to form. 15 A. The county itself would not receive 16 the complaints of physicians. They would be 17 more state functions, Board of Pharmacy, Board 18 of Medicine. I can say that as part of our 19 county's response to the opioid epidemic, I 20 spoke at all of our major institutions as a 21 representative of the county, our hospital 22 organizations -- there are three in Cuyahoga 23 County, the Cleveland Clinic, University 24 Hospital, which is affiliated with Case Western, 25 and MetroHealth Medical Center -- about issues</p>	<p style="text-align: right;">Page 157</p> <p>1 Let's see if we can just focus on 2 the topic that's actually listed there, Doctor. 3 "Plaintiff's knowledge of concerns or complaints 4 made to them or by them about promotion, 5 marketing, or educational activities with 6 respect to prescription opioids within or 7 related to Plaintiff's geographic area." 8 Do you see that? 9 A. Um-hum. 10 Q. Giving me some level of specificity, 11 are you aware of any specific complaints or 12 concerns that were raised to you or to the 13 county responding specifically to the wording of 14 topic 3? 15 MR. BADALA: Objection to form. 16 Asked and answered. 17 A. As I said, the concerns were being 18 expressed to me in the course of educational 19 activities and they did relate to marketing and 20 the promotion of these drugs as being not 21 potentially significantly addictive. 22 Q. When? When did you first hear 23 those? 24 MR. BADALA: Objection to form. 25 Outside of the scope.</p>

<p style="text-align: right;">Page 158</p> <p>1 A. I could not give you a specific 2 date. I had town hall and multiple meetings in 3 which I believe were furnished educational 4 activities with physicians specifically to 5 address the heroin crisis, but also to start to 6 share information that we had gleaned from the 7 prescription monitoring program, OARRS, in our 8 state, that indicated that there was a 9 substantial concern that the heroin-addicted 10 population was progressing from an opioid pain 11 reliever addicted population, and that was when 12 I would hear the concerns because there were 13 concerns about overprescribing and a setup for 14 heroin addiction or fentanyl addiction and they 15 were expressed to me at those town halls. 16 Q. And I'm going to move to strike and 17 we're going to have to ask for more time. I 18 asked you very specifically when and you've 19 given me kind of a speech. 20 A. 2013. 21 Q. Okay. Thank you. 22 A. That's when I started my town halls. 23 Q. It's very simple. 24 A. It would have continued to the 25 present.</p>	<p style="text-align: right;">Page 160</p> <p>1 people in town -- in county government? 2 MR. BADALA: Objection to form. 3 A. The appropriate mechanism for those 4 investigations would be at the state level. Can 5 somebody from the county receive those, that's 6 certainly possible. Local law enforcement 7 could, who also are not county employees. We 8 have our sheriff. And they may have received 9 those as well, but the actual complaints and 10 concerns, as I know them to be a county 11 function, are probably the date I mentioned. 12 Q. Other than the individual complaints 13 that you heard of when you were having these 14 anecdotal conversations, did you identify any 15 database or any people who maintained those or 16 any complaints about pharmaceutical or other 17 Defendant conduct or marketing activities? 18 MR. BADALA: Objection to form. 19 A. Not as I remember the county level. 20 Q. And that's -- as part of your 21 preparation for today, you did a full and fair 22 analysis of whether there were any concerns or 23 complaints maintained by the county, fair? 24 A. Yes, I did. 25 Q. And your testimony is you didn't</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. So I'm asking -- bite size pieces -- 2 2013 is the first time that you did your town 3 halls and that's when you heard complaints, 4 fair? 5 A. That's the first time I, as an agent 6 of the county, became aware of it, and I think 7 that that's the first time, you know, that I am 8 aware that people were expressing those concerns 9 about addiction. 10 Q. And so is the answer that the 11 county's first time that it had concerns or 12 complaints in response to topic 3 was in 2013 13 based on your investigation and work in 14 preparation for this deposition? Is that fair? 15 MR. BADALA: Objection to form. 16 A. Let me just reread that. 17 With the understanding that we would 18 not have -- I'm not representing the state, who 19 may have received those complaints. That's the 20 first I'm aware of the county understanding 21 that. So around 2013. 22 Q. There's no -- is it really your 23 testimony there's no ability for the county to 24 receive a complaint by a consumer or another 25 doctor or a public citizen to one of the various</p>	<p style="text-align: right;">Page 161</p> <p>1 find any? 2 A. I could not find anything within the 3 county that I would say were fulfilling this, 4 but as I say, whether there were complaints made 5 from the county up to the state, that, I did not 6 investigate. 7 Q. Now, you also were -- 8 A. Or to federal. I guess they could 9 also possibly -- 10 Q. Why didn't you investigate those? 11 MR. BADALA: Objection to form. 12 A. The regulation of medicine in the 13 state of Ohio is at the state level, and the 14 regulation of complaints about doctors' 15 practices and things like that would seem to be 16 more appropriate at the state level. The county 17 doesn't have a specific mechanism to investigate 18 those complaints to the best of my knowledge. 19 Q. But you just told me that the county 20 may have made a referral to the state or the 21 Feds because those are the right people, and 22 that's exactly what this calls for, right? It 23 says, "Concerns or complaints made to them or by 24 them," meaning Cuyahoga County. Do you see 25 that?</p>



<p style="text-align: right;">Page 162</p> <p>1 A. Yes, I do.</p> <p>2 Q. And the answer may be the same, but</p> <p>3 I just want to make sure we're on the same page.</p> <p>4 Did you do any work to identify whether the</p> <p>5 county ever made a complaint or expressed any</p> <p>6 concerns to any federal agency or any statewide</p> <p>7 agency with respect to promotional, marketing or</p> <p>8 educational activities concerning prescription</p> <p>9 opioids?</p> <p>10 A. Not that I know of.</p> <p>11 Q. And it's your testimony that the</p> <p>12 state is actually the agency that's best</p> <p>13 empowered to handle those types of complaints?</p> <p>14 A. The state would investigate</p> <p>15 overprescribing through the Board of Pharmacy,</p> <p>16 medical practices through the Board of Medicine.</p> <p>17 That would be the more appropriate people to</p> <p>18 address that.</p> <p>19 Q. And you're not aware of whether</p> <p>20 anybody in the entire Cuyahoga County system</p> <p>21 made a complaint or a referral to any of those</p> <p>22 state agencies, are you?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 A. I know the prosecutor, in my</p> <p>25 discussions with him, talked about prescribing</p>	<p style="text-align: right;">Page 164</p> <p>1 regarding pharmaceutical or defense advertising</p> <p>2 or marketing information to a state or federal</p> <p>3 agency? Do you have any specific --</p> <p>4 MR. BADALA: Objection. Outside the</p> <p>5 scope.</p> <p>6 A. Whether the county did?</p> <p>7 Q. Yes.</p> <p>8 A. No, I do not.</p> <p>9 Q. And do you have any information</p> <p>10 whether the county made any of those inquiries</p> <p>11 or concerns and expressed them to any federal</p> <p>12 agency?</p> <p>13 A. Before the time we're talking about?</p> <p>14 Q. Any time. That's what this calls</p> <p>15 for.</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 A. I think when we identified, through</p> <p>18 the Poison Death Review Committee, through our</p> <p>19 task forces, that there was a role for the</p> <p>20 prescription opiates in the subsequent evolution</p> <p>21 into heroin and fentanyl addiction, there were</p> <p>22 representatives on the task forces at the</p> <p>23 federal level, at state level, and that</p> <p>24 information would have been passed up to them.</p> <p>25 We as a county would have -- when we</p>
<p style="text-align: right;">Page 163</p> <p>1 of, you know, doctors over, you know, the time</p> <p>2 frame for the lawsuit, and, you know, those</p> <p>3 people could have, you know, or should have been</p> <p>4 referred to the Board of Pharmacy or Board of</p> <p>5 Medicine.</p> <p>6 Q. But you'd be speculating? Do you</p> <p>7 know?</p> <p>8 A. What's that?</p> <p>9 Q. Do you know whether they did or not</p> <p>10 or are you speculating?</p> <p>11 A. Well, I think the other piece of it,</p> <p>12 not to evade your question, is that there would</p> <p>13 be opportunities, based on my discussion with</p> <p>14 the prosecutor, where information would be</p> <p>15 filtered back to them from those state agencies</p> <p>16 as well.</p> <p>17 Q. I understand.</p> <p>18 And you understand, Doctor, today is</p> <p>19 just my opportunity to try and just probe for</p> <p>20 information and get it, which I don't have.</p> <p>21 A. I think that's great and I hope I'm</p> <p>22 being helpful.</p> <p>23 Q. So these are very simple questions.</p> <p>24 Are you aware of any facts in which</p> <p>25 the state made a referral or a complaint</p>	<p style="text-align: right;">Page 165</p> <p>1 identified people who were doctor shopping based</p> <p>2 on that review, we went back and looked at all</p> <p>3 of their prescribing as far as we could with our</p> <p>4 prescription drug monitoring program for</p> <p>5 overdose deaths. If we identified doctor</p> <p>6 shopping, which we defined as five or more</p> <p>7 prescribers within a one-year period, we would</p> <p>8 refer that back to the Board of Pharmacy, "we"</p> <p>9 being the medical examiner's office.</p> <p>10 I also know, based on conversations</p> <p>11 with the Division of Child and Family Services,</p> <p>12 there were also instances -- I don't have</p> <p>13 specifics that I could share with you, and I</p> <p>14 don't know if the county would have them, but</p> <p>15 when they became aware of what looked like -- I</p> <p>16 remember the term -- my contact used "fishy</p> <p>17 prescriptions," they would also be referred to</p> <p>18 the state for further investigation.</p> <p>19 Q. Are fishy prescriptions -- do they</p> <p>20 contribute to the opioid crisis?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 A. I think, sure. You know, if they're</p> <p>23 not going to be, you know, something that's</p> <p>24 legitimate -- you know, anything I think that</p> <p>25 puts more drugs into the system, especially by</p>

<p style="text-align: right;">Page 166</p> <p>1 an illegal means, has the potential to  2 contribute to the opioid crisis.  3 Q. And do you know whether any of those  4 fishy prescriptions are on the list in front of  5 you?  6 A. They were child and family services,  7 so I don't know really. That was an anecdotal  8 recollection.  9 Q. Does doctor shopping lead to and  10 contribute to the opioid crisis?  11 MR. BADALA: Objection to form.  12 Which topic are we on?  13 MR. CHEFFO: General questions.  14 Q. You can answer.  15 MR. BADALA: Outside the scope.  16 A. Does doctor shopping contribute to  17 the opioid crisis?  18 MR. BADALA: Objection to form.  19 A. I think that that's a well  20 recognized form of diversion of pharmaceuticals.  21 Q. You presented us with some  22 handwritten notes just a little while ago. Do  23 you have a copy in front of you?  24 A. I do not.  25 MR. CHEFFO: Let's mark them. Have</p>	<p style="text-align: right;">Page 168</p> <p>1 both of these folks participated in. If I say  2 task force, this is the Board of Health task  3 force. The other one was housed in the -- or  4 chaired by the U.S. Attorney, initially Steve  5 Dettelbach, then Carole Rendon, and now Justin  6 Herdman, our succession of U.S. Attorneys.  7 Sorry I went on.  8 Q. I'm trying not to cut you off, but  9 I'm asking very specific questions here.  10 Have you ever been media trained?  11 MR. BADALA: Objection. Outside the  12 scope.  13 A. No. Am I good?  14 Q. You're looking at the camera a lot.  15 A. Well, that -- I have been trained to  16 talk to the jury.  17 Q. Oh, okay.  18 You only took notes for three  19 people?  20 A. Yes.  21 Q. And are these the complete notes  22 from the two that you provided or are there  23 anything missing?  24 A. No. This is everything.  25 Q. In fact, when you told us that these</p>
<p style="text-align: right;">Page 167</p> <p>1 we marked them yet?  2 MR. BADALA: Yes. We have 7 and 8.  3 Q. What are these, Doctor?  4 A. Oh, when we talked earlier, we had  5 said was there anybody who I had talked to about  6 -- in preparation for today, and these are two  7 of the conversations I had where I took notes  8 actually. And I think I mentioned the third  9 one, which I'm quite confident I threw away. I  10 wasn't at the time remembering that I had kept  11 these. They were just preserved, so I produced  12 them.  13 But anyway, one is -- Exhibit 7 is  14 my notes when I talked to Joan Papp, who was the  15 doctor at MetroHealth Medical Center who was the  16 principal founder of our Deaths Avoided With  17 Naloxone program, naloxone being the antidote to  18 potentially reverse an opioid overdose.  19 And the other one was Vince Caraffi,  20 and that's C-a-r-a-f-f-i, and he was -- he is  21 still the injury prevention program supervisor  22 at the County Board of Health and he was also  23 the chair of the County Board of Health opiate  24 task force.  25 There was a second task force which</p>	<p style="text-align: right;">Page 169</p> <p>1 were somewhere in a landfill, they were in your  2 bag back in your room probably?  3 A. Yes. One was in a landfill.  4 Q. But these two, where were they?  5 A. These were in a file in my bag.  6 Q. In your bag.  7 When was the last time you looked at  8 them before right now?  9 A. I just wrote them I think within the  10 last week or two, so within the last week or  11 two.  12 MR. CHEFFO: Okay. I think I'm just  13 about done. Just give me about two minutes.  14 MR. BADALA: Yes. Do you want to go  15 off the record?  16 MR. CHEFFO: Yes. Let's go off the  17 record for a minute.  18 THE VIDEOGRAPHER: Off the record at  19 12:35 p.m.  20 (Recess had.)  21 THE VIDEOGRAPHER: Back on the  22 record at 12:46 p.m.  23 BY MR. CHEFFO:  24 Q. Before I ask you questions, Doctor,  25 some of this is, frankly, illegible. And I</p>

<p style="text-align: right;">Page 170</p> <p>1 don't want to quibble. I appreciate we have it 2 now. 3 A. I'm a doctor. I can read it all, or 4 most of it I should say. Some of it I can't 5 even read. 6 Q. At some point we may just ask you to 7 do it because it's just really hard to do, but 8 I'm not going to ask you to do it at this 9 minute. I'll see if we can decipher it over 10 lunch. 11 Before we leave topic 3, I did just 12 want to ask you -- there's a part B here. Now, 13 you told us that the only information -- tell me 14 if this is correct -- that you had of kind of 15 claims or complaints was some anecdotal 16 information that you obtained during some town 17 hall meetings starting in 2013. Is that fair? 18 A. I'd characterize it more as these 19 were talks that were specifically towards the 20 medical communities, so they were more formal I 21 think than -- we did a lot of town halls, too, 22 but these were -- those concerns that I 23 expressed were more expressed to me when I was 24 in that forum where I was doing the grand rounds 25 or something like that.</p>	<p style="text-align: right;">Page 172</p> <p>1 We're looking at things like where did the 2 person live, where -- what was their level of 3 education, was there anything that might have 4 predisposed them in terms of a job to develop a 5 heroin addiction. And the last one that I want 6 to stress, because it's relevant to this, is we 7 were looking at the role that prescription 8 opioids might have played in generating a heroin 9 crisis. We've had heroin epidemics in Cuyahoga 10 County before the prescription drug problem. So 11 we were really trying to collect good data to 12 make that association. 13 Q. Again, Doctor, my question is really 14 a little bit different. 15 A. I'm sorry. 16 Q. It's just basically you told us that 17 you had some anecdotal information, and B says 18 the actions taken by the county in response to 19 those. I know you told me -- let me ask you a 20 few follow-ups. 21 You said you were hearing this and 22 collecting. Did you memorialize this? Did you 23 put this in a file? Did you take notes on any 24 of this? 25 MR. BADALA: Objection to form.</p>
<p style="text-align: right;">Page 171</p> <p>1 Q. And then the topic 3 has B. It 2 talks about the actions taken by Cuyahoga County 3 in response to those concerns or complaints. So 4 in your preparation, can you tell us all the 5 things -- so when you heard those things, I 6 assume there was a litany of things that you or 7 the county did. 8 A. Sure. 9 I think, you know -- I have to 10 stress that at the time that I'm doing these, 11 you know, grand rounds, town halls, we have a 12 heroin epidemic and we have not really 13 established its link back to prescription drugs 14 at that point definitively. That's why we 15 needed to go back and do the OARRS data. I'm 16 sharing what I'm seeing because it's concerning 17 to me, but I don't think it would represent the 18 county to say that we had established that link. 19 So I am presenting data about heroin, I'm 20 collecting their anecdotal information and, at 21 the same time, in the medical examiner's office 22 we are going back to do reviews of the heroin 23 fatalities with specific things that we're 24 looking at in addition to demographic 25 information, just, you know, age, race, sex.</p>	<p style="text-align: right;">Page 173</p> <p>1 A. These complaints as I'm hearing 2 them? 3 Q. Yes. 4 A. No. They were mostly conversations 5 I would have after these meetings. I have a 6 record in our statistical report of where I was 7 speaking, but the actual person who came up to 8 me, I didn't ask them their name. If I knew it, 9 I knew it. If I didn't -- and writing down any 10 memos about that, I didn't do that. 11 Q. So the answer is no, you have no 12 written record of any of that, right? 13 A. No. 14 Q. Have you identified any written 15 record of anybody in the county that 16 memorialized a complaint or concern about 17 promotion, marketing or educational activities 18 with respect to prescription opioids? 19 MR. BADALA: Objection to form. 20 A. Again, you know, I don't have the 21 access to the state data where those complaints 22 would have been made, but within the county we 23 don't have really a reporting structure like 24 that that I'm aware of and I didn't find any 25 evidence of those complaints being filed at the</p>

<p style="text-align: right;">Page 174</p> <p>1 county level.</p> <p>2 Q. And with respect to those specific</p> <p>3 concerns or complaints that you were told</p> <p>4 anecdotally, are there actions that the county</p> <p>5 took or steps taken?</p> <p>6 A. Not to be unresponsive, but what I</p> <p>7 was saying before about --</p> <p>8 Q. When someone starts an answer "not</p> <p>9 to be unresponsive," I know what's coming, so I</p> <p>10 would kind of maybe ask you to try to be</p> <p>11 responsive.</p> <p>12 A. Well, what I want to say is doing</p> <p>13 those look-backs on our heroin overdoses into</p> <p>14 the prescription database was my way of</p> <p>15 responding to the concerns that these folks had</p> <p>16 about overprescribing based on misinformation</p> <p>17 about the safety of these drugs. And, you know,</p> <p>18 the other piece of anecdotal information that</p> <p>19 I'm hearing, and this would be at town halls in</p> <p>20 addition to other places, and I think there was</p> <p>21 also a national concern that we were really one</p> <p>22 of the first counties to recognize is that</p> <p>23 people are going from the opioid pain relievers</p> <p>24 to heroin, and I think the only way we could</p> <p>25 really go back and look at that with decedent</p>	<p style="text-align: right;">Page 176</p> <p>1 A. Let me just read the question one</p> <p>2 more time.</p> <p>3 Not that I can think of. It's a</p> <p>4 very pervasive problem, as I think you know, and</p> <p>5 whether there were more concerns or complaints</p> <p>6 I'm not thinking of, I don't want to shut the</p> <p>7 door on it, but I would just say that's the best</p> <p>8 I can think of now.</p> <p>9 Q. Does the county still reimburse for</p> <p>10 opioids?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Outside the scope.</p> <p>13 A. I'm not sure I understand.</p> <p>14 Q. Does the county still reimburse for</p> <p>15 opioid medicines for people for which it funds?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 Outside the scope.</p> <p>18 Q. Do you know?</p> <p>19 MR. BADALA: Same objections.</p> <p>20 A. I don't know that. I would say, you</p> <p>21 know, the jail or someplace like that, but most</p> <p>22 of that -- I mean, we did the Medicaid expansion</p> <p>23 in Ohio, so I would think most of that would be</p> <p>24 reimbursed by federal. I honestly don't know.</p> <p>25 Q. Have you seen any information or</p>
<p style="text-align: right;">Page 175</p> <p>1 data as a county was to go back and look at our</p> <p>2 decedents, our drug overdoses, and establish</p> <p>3 that link that they had to the --</p> <p>4 Q. Doctor, I'm going to have to move to</p> <p>5 strike. We're going to have to ask for more</p> <p>6 time because this is not even remotely</p> <p>7 responsive.</p> <p>8 MR. BADALA: That was -- he just</p> <p>9 said that in response to that, that's what they</p> <p>10 did. They started looking at the data.</p> <p>11 MR. CHEFFO: I'm getting an entire</p> <p>12 speech about the heroin --</p> <p>13 MR. BADALA: You are completely</p> <p>14 incorrect. That is completely responsive.</p> <p>15 Q. Is there anything that the county</p> <p>16 did in response to any of these anecdotal</p> <p>17 complaints other than what you've just told us?</p> <p>18 A. The county hospital, after they</p> <p>19 initiated Project DAWN, opened an office of</p> <p>20 opioid affairs to monitor prescribing within the</p> <p>21 county hospital, and that was with follow-up to</p> <p>22 people who might have been overprescribing, and,</p> <p>23 you know, to just look at that and potentially</p> <p>24 try to steer them towards less prescribing.</p> <p>25 Q. Anything else?</p>	<p style="text-align: right;">Page 177</p> <p>1 memoranda of any interviews with any healthcare</p> <p>2 providers who wrote any of the prescriptions in</p> <p>3 connection with Exhibit A?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 Outside the scope.</p> <p>6 A. No, I have not.</p> <p>7 Q. And I think the last kind of</p> <p>8 question or area, you mentioned -- I just want</p> <p>9 to follow up. You testified that when you heard</p> <p>10 these anecdotal reports, you went back and you</p> <p>11 checked OARRS data, perhaps amongst others, in</p> <p>12 connection with your database of overdose</p> <p>13 deaths. Did I get that right?</p> <p>14 A. Right. We were cross-checking our</p> <p>15 heroin overdoses against the OARRS database. We</p> <p>16 would also, I should say -- and I think this</p> <p>17 started about 2014 or '15. We were sending</p> <p>18 lists of our prescription opioid deaths</p> <p>19 quarterly to the Ohio Department of Health as</p> <p>20 part of a grant, but the specific checks we were</p> <p>21 doing in the office that I mentioned were on the</p> <p>22 heroin overdose population.</p> <p>23 Q. And you were looking for what?</p> <p>24 A. Well, there was, again, the</p> <p>25 anecdotal evidence that we may be seeing a</p>

<p style="text-align: right;">Page 178</p> <p>1 transition from prescription opiates to heroin.  2 We had a spike in heroin mortality, and the  3 function of going back to look at that was to  4 firm up to our satisfaction that this was, in  5 fact, the relationship. I think the data to  6 inform that was critical because, you know,  7 policies get into trouble when you have  8 inadequate data, and I think that this was  9 really something that we wanted to be sure we  10 were right on.  11 Q. Did the county conduct any studies  12 to assess the potential impact of pharmaceutical  13 marketing on prescribing practices in Cuyahoga?  14 A. The county itself, I don't -- not  15 that I know of.  16 Q. Any neighboring counties that you're  17 aware of?  18 A. Marketing practices -- I'm sorry.  19 Read it one more time.  20 Q. Sure.  21 Did the county conduct any studies  22 to assess the potential impact of pharmaceutical  23 marketing on prescribing practices or did a  24 neighboring county?  25 A. You know, I'll say no because I</p>	<p style="text-align: right;">Page 180</p> <p>1 would show a prescription from a pharmacy?  2 A. You know, our access to that  3 database evolved over time, so originally -- oh,  4 one other person I spoke to in preparation was  5 the head of the OARRS, Chad Garner. But our  6 access to this actually predated his becoming  7 the head of that.  8 We reached back to them because of  9 the concern that the prescription opioids might  10 be creating that drug-addicted population who  11 eventually move on to heroin; and when we  12 originally requested that access, because I  13 don't have a DEA number, I'm not writing  14 prescriptions for opioids, I could not actually  15 get access as a prescriber, so what they did,  16 and it's part of OARRS' mission, is they'll  17 support public health initiatives to, you know,  18 ultimately respond to responsible opioid  19 prescribing. They gave us de-identified data.  20 So what I could tell from that was  21 the overdose victim -- those were the names we  22 supplied, what they had been prescribed, but  23 what I could not see was who was doing the  24 prescribing. So it became hard for us to do  25 anything about doctor shopping or really a lot</p>
<p style="text-align: right;">Page 179</p> <p>1 think there were reports that I read about, you  2 know, how did this opioid crisis, you know,  3 start, and they would point to things like, you  4 know, marketing practices. But the county  5 specifically studying that, that -- I don't know  6 of anything specific research-wise.  7 Q. If someone has an overdose death of  8 heroin, can you determine whether they ever had  9 a prescription opioid?  10 MR. BADALA: Objection to form.  11 Q. A lawful prescription opioid.  12 MR. BADALA: Outside the scope.  13 A. What we were doing going back into  14 the OARRS file was to find if they had the  15 prescription.  16 Q. That's what you were trying to do is  17 find out if they had a lawful prescription?  18 A. Right.  19 Q. And for how long did you go back?  20 A. Well, I shouldn't say -- I don't  21 know that they were lawful. Whether they had a  22 prescription for opioid pain relievers. Whether  23 they were diverted or, you know, pill mill, that  24 I couldn't tell.  25 Q. So what would it show, though? It</p>	<p style="text-align: right;">Page 181</p> <p>1 of things that would have been specific about  2 diversion at a prescriber level.  3 In, I want to say, about June of  4 2013, we get law enforcement access to the  5 opioid -- pardon me, the OARRS, the Ohio  6 Automated Reporting RX System, and at that point  7 I can start to go back and look at physicians  8 specifically and prescribers.  9 So initially the -- pardon me --  10 2012 data was just aggregated. I could tell,  11 geez, a lot of these folks have prescriptions,  12 but I couldn't really get a good handle on what  13 was going on at a deeper level of, you know,  14 where is the diversion occurring, and there were  15 very lengthy reports at that time.  16 Q. Are you aware of any studies that  17 were done by either Cleveland or Summit that  18 showed that well over 90 percent of the doctors  19 who responded indicated that they were not  20 influenced by pharmaceutical marketing? Does  21 that ring a bell to you?  22 MR. BADALA: Objection to form.  23 A. Not a study I'm familiar with.  24 Q. Over 90 percent?  25 A. I'm not familiar with any study</p>



<p style="text-align: right;">Page 182</p> <p>1 along those lines.</p> <p>2 Q. And the last question, I think I</p> <p>3 promise, is, of the three criteria, the</p> <p>4 substance abuse disorder -- we talked about that</p> <p>5 earlier.</p> <p>6 A. Yeah. Sure.</p> <p>7 Q. Other than saying that's a criteria,</p> <p>8 can you tell us anything more about how that's</p> <p>9 defined, whether that's used -- something from</p> <p>10 the DSM-4 or 5 or something else, or is that the</p> <p>11 extent of your knowledge?</p> <p>12 A. That's the extent of my knowledge.</p> <p>13 As I think I said earlier, there's criteria for</p> <p>14 that diagnosis. I don't know if they were</p> <p>15 specifically applied in identifying that</p> <p>16 population or which criteria were.</p> <p>17 MR. CHEFFO: Okay. Let's take a</p> <p>18 lunch break.</p> <p>19 THE VIDEOGRAPHER: Off the record at</p> <p>20 1 o'clock p.m.</p> <p>21</p> <p>22 (Luncheon recess had.)</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 184</p> <p>1 investigation of doctors, pharmacists,</p> <p>2 pharmacies, clinics, 'pill mills,' or hospitals</p> <p>3 in Plaintiff's geographic area for diversion of</p> <p>4 prescription opioids or the improper prescribing</p> <p>5 of opioids."</p> <p>6 Is that one?</p> <p>7 A. Yes.</p> <p>8 Q. The next is, "Plaintiff's knowledge</p> <p>9 of and access to data concerning prescription</p> <p>10 opioid manufacturing, prescribing, distribution,</p> <p>11 or dispensing." Is that one, Doctor?</p> <p>12 A. Topic 27 for me, right?</p> <p>13 Q. Correct.</p> <p>14 A. Okay. Yes.</p> <p>15 Q. The next is topic 28, "The policies</p> <p>16 regarding the Ohio Board of Pharmacy's OARRS</p> <p>17 database." Is that one?</p> <p>18 A. Yes.</p> <p>19 Q. And then, finally, for my portion of</p> <p>20 this deposition, topic number 30, "What efforts,</p> <p>21 if any, Plaintiffs made to influence the DEA's</p> <p>22 quota-setting process; and what actions, if any,</p> <p>23 Plaintiffs took in response to the DEA's setting</p> <p>24 of quotas." Is that one of yours, Doctor?</p> <p>25 A. Yes, it is, sir.</p>
<p style="text-align: right;">Page 183</p> <p>1 THE VIDEOGRAPHER: Back on the</p> <p>2 record at 1:38 p.m.</p> <p>3 - - - - -</p> <p>4 AFTERNOON SESSION</p> <p>5 EXAMINATION OF THOMAS GILSON, M.D.</p> <p>6 BY MR. BORANIAN:</p> <p>7 Q. Good afternoon, Dr. Gilson. I'm</p> <p>8 Steven Boranian.</p> <p>9 You understand you're here</p> <p>10 testifying as a representative of the county,</p> <p>11 correct?</p> <p>12 A. Yes, I do.</p> <p>13 Q. So I'm going to question you on some</p> <p>14 topics different from this morning's</p> <p>15 questioning, although there may be some modest</p> <p>16 overlap. I'm going to read off those topics and</p> <p>17 please, Doctor, tell me if you understand that</p> <p>18 you are testifying for the county on these</p> <p>19 particular topics.</p> <p>20 The first is topic number 2,</p> <p>21 "Diversion of prescription opioids in</p> <p>22 Plaintiff's geographic area."</p> <p>23 A. Yes, I do. That was one of the ones</p> <p>24 that I was prepared to respond to as well.</p> <p>25 Q. The next is topic number 15, "The</p>	<p style="text-align: right;">Page 185</p> <p>1 Q. Excellent. Thank you.</p> <p>2 Let me ask you a few questions about</p> <p>3 the prescription drug supply chain and diversion</p> <p>4 of prescription drugs.</p> <p>5 Do you understand or do you have an</p> <p>6 understanding of the prescription drug supply</p> <p>7 chain?</p> <p>8 A. In a general way.</p> <p>9 Q. So prescription drugs go from a</p> <p>10 prescription drug manufacturer to pharmacies or</p> <p>11 healthcare facilities, there's usually a</p> <p>12 wholesaler or distributor involved, and then the</p> <p>13 drugs are prescribed to patients or dispensed to</p> <p>14 patients who hold valid prescriptions, true?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 Sorry, Steve. Is this topic 2?</p> <p>17 MR. BORANIAN: Correct.</p> <p>18 MR. BADALA: I'm going to also</p> <p>19 object to outside the scope.</p> <p>20 A. Right. As I understand your</p> <p>21 question, they would be receiving --</p> <p>22 Q. My question is this: Does what I</p> <p>23 just said match your understanding of the</p> <p>24 prescription drug supply chain?</p> <p>25 MR. BADALA: Same objections.</p>

<p style="text-align: right;">Page 186</p> <p>1 A. Could you read it back quick?</p> <p>2 Q. Let me do it again for you.</p> <p>3 A. Sure. Thank you.</p> <p>4 Q. A prescription drug manufacturer</p> <p>5 supplies prescription drugs to a pharmacy or</p> <p>6 healthcare facility, there's usually a</p> <p>7 distributor or wholesaler involved, and drugs</p> <p>8 are then dispensed to patients who hold valid</p> <p>9 prescriptions. Does that match your</p> <p>10 understanding as a physician of the prescription</p> <p>11 drug supply chain?</p> <p>12 MR. BADALA: Objection to form.</p> <p>13 Outside the scope.</p> <p>14 A. As a physician, yes. In this</p> <p>15 county, I would say yes.</p> <p>16 Q. And are you familiar with the</p> <p>17 concept known as a closed supply chain?</p> <p>18 MR. BADALA: Same objection.</p> <p>19 A. No, I'm not.</p> <p>20 Q. So within that whole process, from</p> <p>21 manufacturer to the patient, product should</p> <p>22 neither enter nor exit the supply chain, and</p> <p>23 that's what we mean by a closed supply chain.</p> <p>24 Is that clear, Doctor?</p> <p>25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 188</p> <p>1 that have been diverted?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 Outside the scope.</p> <p>4 A. I think, you know, the data I can</p> <p>5 look at evolves over time. The best number I</p> <p>6 can give you is from an Ohio Department of</p> <p>7 Health report from 2010, which estimated, using</p> <p>8 their methodology, that somewhere about 20 to 23</p> <p>9 percent of the overdoses that were being seen</p> <p>10 were associated with diverted prescription</p> <p>11 medication.</p> <p>12 I don't know that we've actually</p> <p>13 looked at the percentage of diversion because</p> <p>14 the crisis, as it's evolved, has really gone to</p> <p>15 a point where we're not talking about the</p> <p>16 diversion of legal substances so much as an</p> <p>17 evolution into illegal substances.</p> <p>18 Q. And that's the prevalence you're</p> <p>19 currently seeing with heroin and fentanyl,</p> <p>20 correct?</p> <p>21 A. Right. That's where our opioid</p> <p>22 crisis is now as of -- probably since about</p> <p>23 2011, 2012. It wasn't that the opioid pain</p> <p>24 reliever aspect of it and mortality associated</p> <p>25 with it went away. It's just that the rise in</p>
<p style="text-align: right;">Page 187</p> <p>1 A. Got it. Okay.</p> <p>2 Q. So if a product is channeled or</p> <p>3 provided to someone outside the supply chain for</p> <p>4 a non-legitimate medical purpose, is that known</p> <p>5 as drug diversion?</p> <p>6 A. I could see that. I usually think</p> <p>7 of it as kind of the improper use of medication</p> <p>8 for non-therapeutic use, but I think we're</p> <p>9 saying the same thing.</p> <p>10 Q. Would that be your definition of</p> <p>11 drug diversion, what you just said?</p> <p>12 A. It would be one I would be willing</p> <p>13 to work with, sure.</p> <p>14 Q. Is drug diversion a crime?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 Outside the scope.</p> <p>17 A. I believe so.</p> <p>18 Q. When a licensed manufacturer or</p> <p>19 distributor ships a prescription opioid to</p> <p>20 another licensed entity for legal sale, is that</p> <p>21 considered drug diversion?</p> <p>22 A. When a licensed manufacturer ships</p> <p>23 it to a distributor, no, I don't think so.</p> <p>24 Q. What percentage of prescription</p> <p>25 opioid abuse in the county stems from opioids</p>	<p style="text-align: right;">Page 189</p> <p>1 what's been driving mortality more since those</p> <p>2 years I mentioned has been the illicit drugs.</p> <p>3 Q. But it's fair to say that the aspect</p> <p>4 associated with opioid pain relievers has</p> <p>5 plateaued or diminished since 2011?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 Outside the scope.</p> <p>8 A. It bounces around, but it appears to</p> <p>9 have plateaued after rising, yes.</p> <p>10 Q. In about 2011, right?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Outside the scope.</p> <p>13 A. Sure. Okay.</p> <p>14 Q. Now, the Ohio Department of Health</p> <p>15 report that you just referenced, is that</p> <p>16 statewide data or is that -- well, strike that.</p> <p>17 What geographic scope does that data</p> <p>18 cover?</p> <p>19 A. It was divided into regional</p> <p>20 reports, so there wasn't really any</p> <p>21 county-specific data that I can point to in it.</p> <p>22 I do know at one point around that time the Ohio</p> <p>23 Department of Health identified different</p> <p>24 counties that they thought were having a problem</p> <p>25 with opioid pain relievers. Most of them were</p>

<p style="text-align: right;">Page 190</p> <p>1 in the southern part of the state, though 2 Cuyahoga County was one of those counties as 3 well. 4 Q. Now, you've said the county has not 5 really tracked the percentage related to 6 diverted opioids, but has the county ever 7 collected any information from which that 8 percentage could be calculated on a countywide 9 basis? 10 A. I would think that would be more at 11 a state level. I'm not aware of anything at the 12 county level that I could think of off the top 13 of my head. The prescribing information would 14 be more state level, so OARRS and things like 15 that, which would have the pharmacies 16 responding, would be more state -- might drill 17 down into the county, but I don't know that. 18 The county itself would not collect that data to 19 the best of my knowledge. 20 Q. Let me ask you about how diversion 21 occurs. When a patient gives or sells his or 22 her medication to someone else, that's drug 23 diversion, true? 24 A. I'd consider that, sure. 25 Q. If a doctor intentionally</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. Do you agree that almost all 2 prescription drug diversion occurs after 3 prescription drugs have been dispensed to 4 patients? 5 A. I wouldn't know. I mean, I am 6 certainly aware of instances where it has been 7 dispensed to the patient and instances where 8 somebody may overmedicate themselves or they're 9 selling drugs or they're potentially just having 10 leftover drugs that somebody has access to, but 11 I wouldn't know that I would say the majority 12 would be that. I wouldn't have an opinion on 13 it. 14 Q. So those are all examples of drug 15 diversion that occur? 16 A. At a patient level. 17 Q. At a patient level. Very well. 18 Can you give me any examples of 19 diversion that occur before drugs have been 20 dispensed to patients? 21 A. I think the overprescribing, the 22 pill mill scenario, the robbery of a pharmacy, 23 the influx of large amounts of drugs beyond the 24 population density would be indications to me of 25 diversion.</p>
<p style="text-align: right;">Page 191</p> <p>1 overprescribes medication without establishing a 2 doctor/patient relationship and without a valid 3 medical purpose, is that drug diversion? 4 A. I think I would consider that the 5 same, yes. 6 Q. When a drug user or consumer steals 7 prescription drugs from another patient, is that 8 drug diversion? 9 A. Yes. They weren't -- they're 10 outside their intended recipient. 11 Q. Is doctor shopping a well-known form 12 of diversion? 13 MR. BADALA: Objection to form. 14 A. I would consider that it's within 15 the intent to obtain multiple prescriptions. 16 Q. And doctor shopping is defined as 17 you defined earlier today, correct? 18 A. That's the definition I use. I know 19 that some other individuals, when I talk, we use 20 slightly different variations, but that was 21 actually one our task force or our Poison Death 22 Review Committee received from the medical 23 director of our alcohol, drug abuse and mental 24 health services department, so that's the one 25 we've used since inception.</p>	<p style="text-align: right;">Page 193</p> <p>1 Q. Can you identify any examples of 2 drugs being stolen from pharmacies in Cuyahoga 3 County? 4 A. I am aware of that phenomenon 5 happening, but I don't have specifics I could 6 share with you. 7 Q. And when a doctor intentionally 8 overprescribes prescription drugs, the diversion 9 occurs after the drugs have been dispensed to a 10 patient in that example, true? 11 A. Okay. I can see your point. 12 Q. And when a drug distributor 13 distributes drugs lawfully to a pharmacy and 14 those drugs are then dispensed to a patient and 15 then diverted to another, that occurs after the 16 product has been dispensed to patients, true? 17 A. Sure. I would say so. 18 Q. Has the county ever investigated any 19 pharmaceutical distributor or manufacturer for 20 drug diversion? 21 MR. BADALA: Objection to form. 22 A. When we filed the lawsuit, I know 23 they were named as defendants. 24 Q. Sure. 25 Other than this lawsuit, has the</p>

<p style="text-align: right;">Page 194</p> <p>1 county ever investigated any pharmaceutical 2 distributor or manufacturer for drug diversion? 3 MR. BADALA: Objection to form. 4 Outside the scope. 5 A. Not that I know of. 6 Q. Had the county ever considered doing 7 that before it filed this lawsuit? 8 A. I know there were concerns about 9 just how many opioids there were in our county. 10 Whether it was discussed, you know, to look at 11 distribution, manufacturing, marketing and 12 things like that -- there were a lot of 13 discussions with different task forces how that 14 could have been done, but to the best of my 15 knowledge, they didn't get beyond the discussion 16 phase. 17 Q. Has the county ever investigated any 18 of the Defendants in this case for drug 19 diversion other than filing this lawsuit? 20 MR. BADALA: Objection to form. 21 Outside the scope. 22 A. Let me just review all the 23 Defendants. I know we were investigating 24 prescribers more than the actual distribution 25 companies. I'd have to say prior to the filing</p>	<p style="text-align: right;">Page 196</p> <p>1 lawsuit have any power to arrest people engaged 2 in drug diversion? 3 MR. BADALA: Objection to form. 4 Outside the scope. 5 A. I don't know of any arrests. 6 Q. So along those same lines, would any 7 of the Defendants have -- do any of the 8 Defendants have any power to revoke any 9 professional licenses, such as doctors or 10 pharmacists? 11 MR. BADALA: Objection to form. 12 Outside the scope. 13 A. Not that I know of. 14 Q. Would those be issues addressed by 15 law enforcement and other regulators? 16 MR. BADALA: Objection to form. 17 Outside the scope. 18 A. They would be investigations by law 19 enforcement, I would think, and oversight by 20 regulatory boards, in our case in the state, not 21 at the county level. 22 Q. Has the county ever reported doctors 23 to the State Medical Board for suspected 24 diversion of controlled substances? 25 A. Yes.</p>
<p style="text-align: right;">Page 195</p> <p>1 of the lawsuit, I'm not aware of any specific 2 county initiatives to investigate the 3 pharmaceutical or distribution companies that 4 are mentioned here. 5 Q. Are you aware of any instance where 6 any of the Defendants in this lawsuit sold or 7 distributed prescription opioids outside the 8 closed supply chain? 9 MR. BADALA: Objection to form. 10 Outside the scope. 11 A. Not that I'm aware of. 12 Q. Now, when a patient fills a 13 legitimate and valid prescription, can any of 14 the Defendants in this lawsuit stop that patient 15 from reselling their pills? 16 MR. BADALA: Objection to form. 17 Outside the scope. 18 A. I don't see how they could. 19 Q. Can any of the Defendants stop that 20 patient from sharing his or her medication with 21 someone else? 22 MR. BADALA: Same objections. 23 A. Again, I don't see how they could do 24 that. 25 Q. Do any of the Defendants in this</p>	<p style="text-align: right;">Page 197</p> <p>1 Q. In your office, the medical examiner 2 has done that, right? 3 A. Yes, we have. I would say they were 4 reported to the Board of Pharmacy under the 5 criteria that I mentioned this morning. If we 6 saw high dosages that were being given by a 7 doctor or if we saw that an individual had 8 received the doctor shopping -- met the doctor 9 shopping criteria, we would refer that 10 individual, the overdose victim, to Board of 11 Pharmacy. 12 I'm also aware that the Division of 13 Child and Family Services also had some similar 14 anecdotal things, which I do not have specifics 15 for, but also made reports about concerns about 16 diversion of drugs. 17 There were, obviously, prosecutions 18 of doctors who were diverting drugs through the 19 prosecutor's office. 20 Q. And the prosecution was at the 21 county level, correct? 22 A. No. Actually, there were 23 prosecutions of diversion or individuals -- you 24 know, in terms of county, there were federal 25 prosecutions, especially as the opioid crisis</p>

<p style="text-align: right;">Page 198</p> <p>1 evolved to the point where we were seeing more 2 of the heroin and fentanyl deaths. And I 3 specifically met with Carole Rendon about 4 strategies on those prosecutions. So I would 5 say that there were death specification 6 discussions that we had with the Federal 7 Department of Justice and, you know, those 8 sentencing guidelines were certainly discussed 9 in our U.S. Attorney's task force because they 10 can tend to be significantly longer sentences 11 for individuals. 12 Q. Let me ask you about the medical 13 examiner office's reports to the medical board 14 for investigation. When did the office first do 15 that? 16 A. We started to collect the data from 17 the Board of Pharmacy in 2012, but that was 18 de-identified, so we couldn't really find out 19 who was prescribing. 20 When we did our Poison Death Review 21 Committee in 2013, that's when we started to 22 identify doctor shoppers. At that point about 23 36 percent of our heroin overdose deaths -- and 24 it would have been in 2013 we would have started 25 those reports, and would have continued into</p>	<p style="text-align: right;">Page 200</p> <p>1 of doctors to the medical board, true? 2 A. Board of Pharmacy, yes. The Board 3 of Pharmacy will oversee that aspect of the 4 investigation. We will refer decedents to them 5 for further evaluation and investigation. 6 Q. So have you ever referred a doctor 7 to the medical board for overprescribing or for 8 drug diversion? 9 A. Our practice would be to report to 10 the Board of Pharmacy. I don't know to what 11 extent they would coordinate with the medical 12 board. 13 Q. Have any suspensions or prosecutions 14 resulted from your reporting of particular 15 physicians to -- we'll just stick to the state? 16 MR. BADALA: Objection to form. 17 A. I'm not aware, once we referred 18 them, what the consequences of those 19 investigations were. 20 Q. So, to your knowledge, there have 21 been no consequences; is that right? 22 MR. BADALA: Objection to form. 23 A. -- be disappointed in that, but we 24 referred them to the appropriate investigative 25 agency; and as I mentioned earlier, the county</p>
<p style="text-align: right;">Page 199</p> <p>1 2014 as well, and other years. I mean, we 2 haven't stopped some of these efforts, but that 3 would have been the start of that. 4 Q. So you reported certain doctors to 5 the medical board in 2014. Have you done it in 6 subsequent years? 7 A. Yes. 8 Q. And in what years have you done it 9 since 2014? 10 A. I think every year until the 11 present. 12 Q. And have any suspensions -- 13 A. You know, let me take that back 14 because with this magnitude of the crisis, we 15 fell behind in terms of our, you know, ability 16 to check OARRS data and we just finished 2016's 17 data. We did 2015. 2014, 2015, 2012, those 18 dates I would be willing to say with certainty 19 we did the reports, 2016 to say we just 20 finished. And the specific look we were doing 21 there was with fentanyl. Whether those have 22 been reported, I'm not certain enough to say 23 that that actually has happened. It would be 24 our intention to do so. 25 Q. And, to be clear, those are reports</p>	<p style="text-align: right;">Page 201</p> <p>1 prosecutor has also participated in prosecutions 2 of pill mill doctors and things like that as 3 well. 4 Q. But you don't know if there's been 5 any result from your reporting of doctors to the 6 medical board or the board of pharmacy, right? 7 MR. BADALA: Objection to form. 8 Outside the scope. 9 A. No, I don't. 10 Q. Have there been other times when the 11 county has suspected diversion that you haven't 12 already described to me? 13 A. As I mentioned, the diversion 14 concerns that would be expressed with the 15 Division of Child and Family Services in the 16 course of custodial placement, investigation of 17 children who were born with positive toxicology, 18 my discussions with them were that they would 19 report, again, instances to the Board of 20 Pharmacy and that they would refer them, again, 21 for investigation beyond their capacity. 22 Q. So you've not made any reports, 23 then, directly to any state agency other than 24 the Board of Pharmacy; is that correct? 25 MR. BADALA: Objection to form.</p>



<p style="text-align: right;">Page 202</p> <p>1 A. I cannot speak for the whole county, 2 so I don't know where those referrals were from 3 the Division of Child and Family Services -- the 4 appropriate agency at the state level to receive 5 those complaints, as the county understands it, 6 is the Board of Pharmacy, but whether 7 individuals made those referrals to other 8 places, including the Board of Medicine, which 9 would certainly be somebody overseeing medical 10 practitioners' conduct, may have happened. I 11 don't know for certain whether it did or did 12 not. 13 Q. Are you aware of any referrals to 14 the dental board? 15 A. No, I am not. 16 Q. Are you aware of any referrals to 17 the nursing board? 18 A. No. 19 I should back up with the dentists. 20 There are certain medical dentists, doctor of 21 medical dentistry, and they may have been on our 22 reports and I don't know about them, but 23 specifically that I knew this was a dentist and 24 we made a referral, that I can't say. 25 Q. Have you ever reported anything or</p>	<p style="text-align: right;">Page 204</p> <p>1 know that. 2 Q. Are you aware of any instance where 3 the county reported a specific suspicion of drug 4 diversion to any of the Defendants in this case? 5 A. Seeing it from that perspective, I 6 explained how we've been trying to kind of work 7 with our pharmacies to address the overdose 8 crisis. Those are people we have communicated 9 with. To specifically address diversion at the 10 county level to any of the Defendants, including 11 those pharmacies, that would not have been 12 something we would have done. I think we may 13 have done that further upstream through pharmacy 14 again, Board of Pharmacy. 15 We did -- I take that back, too. 16 One year we did -- for 2014 we tracked pharmacy 17 data to see if there was specific pharmacies 18 that were being identified as frequent sources 19 or multiple sources of diversion. So if we used 20 the same paradigm, it was kind of if we had five 21 pharmacies that were being used by an individual 22 within a one-year period, we did report that to 23 the Board of Pharmacy in addition to the doctor 24 shopper prescribers. 25 Q. Were there occasions when the county</p>
<p style="text-align: right;">Page 203</p> <p>1 has the county ever reported anything to the 2 veterinary medical licensing board? 3 A. Not that I know of. 4 Q. Has the county ever notified any of 5 the Defendants of any suspected drug diversion? 6 A. I mean, we've shared things, data, 7 that the county has collected with folks like -- 8 I know CVS Pharmacy has, you know, agreed to 9 sell naloxone without a prescription. We would 10 have made that effort to all of the pharmacies 11 locally in response to the drug epidemic, which 12 is an outgrowth of the diversion I think. So 13 that would have been something. 14 Q. My question is, have you ever 15 reported -- 16 MR. BADALA: Were you done with your 17 answer? 18 Q. I thought you were done. I'm sorry. 19 MR. BADALA: Only if you're done. 20 A. I think that, you know, those 21 entities were probably the ones we had contact 22 with. We did not, to the best of my knowledge, 23 reach back to the manufacturers. I don't know 24 to what extent the local task forces or anybody 25 would have spoken to distributors. I do not</p>	<p style="text-align: right;">Page 205</p> <p>1 suspected diversion but made no report to 2 anyone? 3 MR. BADALA: Objection to form. 4 A. I don't know. None that I know of. 5 Q. Are there instances in which the 6 county is aware that drug diversion is occurring 7 and that it continues to occur today? 8 MR. BADALA: Objection to form. 9 Outside the scope. 10 A. I think we continue to run our OARRS 11 reports at the medical examiner's office on our 12 decedents and we have, you know, continued to 13 find doctor shoppers up into, you know, recent 14 years. We, again, you know, make those 15 referrals and tend to make those referrals. So 16 I would say that, you know, the number of doctor 17 shoppers has not gone down to zero, so we're 18 still aware of diversion and reporting it. 19 And one of the benefits, I would 20 say, of, you know, the evolution of our 21 prescription drug monitoring program, in 22 association with other states developing these 23 in response to diversion, is that we are now 24 able to identify people who can cross state 25 lines more easily to identify doctor shopping in</p>

<p style="text-align: right;">Page 206</p> <p>1 that capacity, so that if they were not 2 necessarily doctor shopping in Cuyahoga County, 3 we might be able to identify them through going 4 to Pennsylvania or West Virginia or someplace 5 like that.</p> <p>6 Q. When did the county first become 7 aware that drug diversion was occurring within 8 the county?</p> <p>9 A. You know, that's a hard question to 10 answer because I think at some level drug 11 diversion has gone on for a very long time. So, 12 you know, there were people who would write 13 prescriptions for codeine back in the 1970s 14 during that heroin epidemic that I've been told 15 about. There were, you know, diversions that 16 were going on, you know, back in the 1980s per 17 the prosecutor's discussion with me. I would 18 say with regard to this crisis, we started back 19 in the opioid prescription phase to track 20 oxycodone in terms of mortality in the medical 21 examiner, then coroner's office, back in 1998. 22 So I would say, you know, diversion has a broad 23 definition, and it probably has gone on for a 24 very long time, whether somebody is giving 25 somebody a pill because they complained of</p>	<p style="text-align: right;">Page 208</p> <p>1 by its nature is somewhat clandestine, so may 2 not be able to provide solid evidence of it, but 3 I think there were suspicions where the pill 4 mills were more prevalent in the southern part 5 of the state, that they may have contributed to 6 pills coming up to our county as well.</p> <p>7 Q. And what is the basis for what you 8 just told me? In other words, what information 9 are you relying on to describe this drug 10 diversion occurring outside of the county?</p> <p>11 A. Primarily discussions with law 12 enforcement who would have been present at task 13 force meetings. They would be both local law 14 enforcement, state law enforcement, state 15 representatives, and including our, you know, 16 federal partners with regards to diversion of 17 drugs into our area. Again, I'd have to point 18 back to the two task forces, the Board of Health 19 one with Vince Caraffi and then the U.S. 20 Attorneys with Steve Dettelbach and Carole 21 Rendon.</p> <p>22 Q. Does the county keep any records or 23 statistics of the source of diverted drugs that 24 have an impact within the county?</p> <p>25 A. I'm not sure I understand your</p>
<p style="text-align: right;">Page 207</p> <p>1 something. But diversion on the scale that we, 2 you know -- it's getting that attention in the 3 prosecutions, I would say the prosecutor related 4 to me that their prosecution stepped up in the 5 late 1990s and through the 2000s.</p> <p>6 Q. Is the county aware of diversion 7 occurring outside the county that has an impact 8 within the county?</p> <p>9 A. I would suspect that, you know, the 10 pill mills and other places certainly have an 11 impact. The fact that we see doctor shopping in 12 jurisdictions outside of Cuyahoga County with 13 individuals dying here I think would tend to 14 indicate that there is a diversion problem 15 outside of Cuyahoga County as well.</p> <p>16 Q. And where is that occurring?</p> <p>17 A. Where is what occurring?</p> <p>18 Q. So if there's diversion occurring 19 outside of Cuyahoga County, as you've described, 20 that has an impact within the county, where is 21 that diversion occurring?</p> <p>22 A. Well, the doctor shopping, as I 23 mentioned, could be other counties. It could 24 be, as I mentioned, recently other states that 25 we've been able to look at. And the diversion</p>	<p style="text-align: right;">Page 209</p> <p>1 question. Do they keep a record of diverted 2 drugs that would produce overdoses, fatalities?</p> <p>3 Q. Sure. So let me ask it again.</p> <p>4 You've described you've heard from 5 law enforcement professionals in connection with 6 task forces that drug diversion outside the 7 county might be having an impact within the 8 county. Does the county have any record of that 9 happening? If I wanted to look for documents 10 reflecting that dynamic, what would the county 11 have, if anything?</p> <p>12 MR. BADALA: Objection to form.</p> <p>13 Outside the scope.</p> <p>14 A. Well, it's probably more of a local 15 law enforcement function, so the county wouldn't 16 have those records individually. They would be 17 a local law enforcement. That said, the 18 sheriff's department provides local law 19 enforcement for some of the smaller 20 municipalities in our county and they may have 21 that data. I am not aware of that.</p> <p>22 Q. Are you aware of any data tracking 23 the source, the geographic source of diverted 24 drugs that made their way into Cuyahoga County?</p> <p>25 MR. BADALA: Objection to form.</p>

<p style="text-align: right;">Page 210</p> <p>1 Outside the scope.</p> <p>2 A. Am I aware -- sorry. I was looking</p> <p>3 out the window, but am I aware of --</p> <p>4 Q. Are you aware of any data which</p> <p>5 would reflect the geographic source of diverted</p> <p>6 drugs that have an impact within the county?</p> <p>7 MR. BADALA: Same objections.</p> <p>8 A. Well, sure. I mean, you know, more</p> <p>9 recently with the fentanyl epidemic, we were</p> <p>10 quite aware from medical examiner investigations</p> <p>11 that some of those, you know, drugs were coming</p> <p>12 from China. There were, you know, reports of</p> <p>13 individuals trafficking drugs from Mexico into</p> <p>14 this area along our interstates.</p> <p>15 In terms of diverted drugs and the</p> <p>16 source there, you mean the opioid prescription</p> <p>17 pain medication. That I'm not as aware as --</p> <p>18 having as clear identification of a source on</p> <p>19 that.</p> <p>20 Q. So the examples of drugs being</p> <p>21 imported from China and Mexico, those have to do</p> <p>22 with the illicit shipment of drugs, correct?</p> <p>23 A. Which the county would maintain is</p> <p>24 an extension of the opioid crisis. They are</p> <p>25 illicit drugs, yes.</p>	<p style="text-align: right;">Page 212</p> <p>1 supply of illicit fentanyl from Mexico drug</p> <p>2 diversion?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 Asked and answered.</p> <p>5 A. Within your definition of that</p> <p>6 closed chain, no.</p> <p>7 Q. And the same is true for illicit</p> <p>8 fentanyl from China, correct?</p> <p>9 A. Within the closed chain, again,</p> <p>10 that's true.</p> <p>11 Q. Do you have any information or</p> <p>12 data -- does the county have any information or</p> <p>13 data suggesting that diverted drugs from Florida</p> <p>14 are making their way into Ohio?</p> <p>15 A. It would be anecdotal, talking to</p> <p>16 law enforcement. And I believe at the time I</p> <p>17 had those conversations, Florida had not enacted</p> <p>18 pill mill legislation, so our pill mill</p> <p>19 legislation in Ohio came in 2011, and I think</p> <p>20 there were adjacent states, including Florida,</p> <p>21 who did not enact that legislation until later,</p> <p>22 and it was again through discussions with law</p> <p>23 enforcement that I was made aware, as a county</p> <p>24 agent in the medical examiner's office, as with</p> <p>25 the task forces which have county representation</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. And so that does not fall within the</p> <p>2 definition of drug diversion, does it?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 Q. You may think that they're related,</p> <p>5 but those are not diverted drugs, are they?</p> <p>6 A. Fentanyl is a Schedule 2 drug and</p> <p>7 it's being diverted into this country.</p> <p>8 Q. But our definition of drug diversion</p> <p>9 is when a drug leaves the closed supply chain</p> <p>10 for an illegitimate medical purpose. So illicit</p> <p>11 drugs, they're never within the closed supply</p> <p>12 chain; the use of illicit drugs is not drug</p> <p>13 diversion, is it?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 A. No. I think the consequence of the</p> <p>16 opioid pain relievers creates this climate where</p> <p>17 we see a heroin crisis and a fentanyl crisis,</p> <p>18 though, so I don't think it's completely a</p> <p>19 stretch to go back and say that the diversion</p> <p>20 and overprescribing that was done prior to the</p> <p>21 crises is completely separate from the crisis we</p> <p>22 deal with now.</p> <p>23 Q. I understand your opinion on that.</p> <p>24 I'm not asking you now whether they're</p> <p>25 completely separate. What I'm asking is, is the</p>	<p style="text-align: right;">Page 213</p> <p>1 as well as other partners, that there were drugs</p> <p>2 that were being brought from other jurisdictions</p> <p>3 into Ohio and into Cuyahoga County.</p> <p>4 Q. And what has the county done to --</p> <p>5 if anything, to interdict that flow of drugs</p> <p>6 into the county?</p> <p>7 A. Those would be law enforcement</p> <p>8 things. I mean, we have, as a county, designed</p> <p>9 protocols for the investigation of drug-related</p> <p>10 deaths, and they were shared with local law</p> <p>11 enforcement as well as our sheriff for training,</p> <p>12 and we would basically instruct them -- I mean,</p> <p>13 it was developed in conjunction with law</p> <p>14 enforcement processing a death scene, which the</p> <p>15 medical examiner's office would notify them</p> <p>16 about, so that should these cases come to</p> <p>17 prosecution in the future, the evidence that</p> <p>18 would be needed to facilitate that would be more</p> <p>19 acceptable than if you were trying to start that</p> <p>20 investigation as much as months afterwards when</p> <p>21 the death was finally ruled.</p> <p>22 In terms of other means of, you</p> <p>23 know, trying to minimize diversion, the county</p> <p>24 sheriff's office instituted a drug drop box</p> <p>25 program that would enable people who had</p>

<p style="text-align: right;">Page 214</p> <p>1 medications in their medicine cabinets, opioid 2 pain relievers -- 3 Q. Let me cut you off there, Doctor. 4 The question was what has the county done to 5 interdict drugs, the flow of drugs, from outside 6 the county, and I think you've answered the 7 question. Is there anything else you wanted to 8 add to that? 9 A. I would like to think that -- and 10 it's your time and I really am very sensitive to 11 that, but I'd like to say that, you know, that 12 diversion out of the medicine cabinets that I 13 was just mentioning about by reports that were 14 more on a national level was a very significant 15 problem. We introduced in Cuyahoga County, with 16 the support of our sheriff, who was a county 17 official, drug drop boxes, drug take-back -- 18 Q. Doctor, the question pending is, has 19 the county done anything to interdict the flow, 20 which the county is claiming, the flow of drugs 21 from other states. If you finished answering, 22 then I'll ask you another question. 23 A. Oh, I thought you wanted me to go on 24 about what I was talking about. 25 Q. I wanted you to answer the question.</p>	<p style="text-align: right;">Page 216</p> <p>1 law enforcement. 2 Q. Referring to the City of Cleveland, 3 right? 4 A. Pardon me? 5 Q. Referring to cities, right, when you 6 say "local law enforcement"? 7 A. Cities, yeah. It would not be 8 necessarily a county. But I have to stress the 9 county sheriff provides that service to some of 10 the smaller counties that otherwise could not 11 afford it. So they would do some investigation. 12 Investigation would also be done at the level of 13 the prosecutor's office, though that may be 14 significantly overlapping with local law 15 enforcement. 16 Q. Which county agency or agencies are 17 responsible for investigating the 18 overprescription of opioid medicines? 19 MR. BADALA: Objection to form. 20 A. That would be a state function. I 21 mean, the investigation of overprescribing would 22 be a Board of Pharmacy issue and we would report 23 things there as we detected them for further 24 investigation, but beyond that, that would be 25 something that would have been more handled at a</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Sure. 2 Q. Okay. Thank you. 3 Has the county dealt with law 4 enforcement in other places like Florida to 5 interdict the flow of drugs into the county if 6 the county is claiming that's happening? 7 A. Again, I would say a lot of that 8 might be local law enforcement the county would 9 not be aware of. With regard to task forces and 10 federal partners, I would say that we are 11 sharing information through them, Department of 12 Justice, Drug Enforcement Agency, and I would 13 say that that would be a means of, you know, a 14 more global approach than just our region. 15 Q. Let me ask you about the 16 investigation of drug diversion, and these 17 topics somewhat overlap, Doctor. 18 A. Which topic are we on? 19 Q. We're on topic 15, but again, 20 they're not so neatly contained. 21 Which county agency or agencies are 22 responsible for investigating drug diversion? 23 A. Well, I think our sheriff, as a law 24 enforcement agency, would do that, but primarily 25 the investigation of diversion would be local</p>	<p style="text-align: right;">Page 217</p> <p>1 state level -- or a federal level, I mean, if 2 you know, there was some issue of that, and 3 sharing information across multiple partners. 4 Q. Does the county collaborate with 5 state or federal agencies in that effort? 6 A. Our task forces have representation 7 from local, county, state and federal level 8 people, so we would be sharing that information. 9 Q. Is that collaboration formalized in 10 writing, in a memorandum of understanding or any 11 other writing? 12 MR. BADALA: Objection to form. 13 A. These committees were formed. I 14 mean, the U.S. Attorney's committee keeps 15 minutes, has monthly meetings, and would address 16 these kinds of topics. We would share things 17 like that. I had a personal meeting with Carole 18 Rendon to discuss strategies about drug 19 prosecutions and mixed intoxications. I mean, 20 some of those things we have done. Some of them 21 may not be documented as well. 22 Q. So you've told me about the 23 referrals that the county has made to state 24 authorities. How many cases of drug diversion 25 has the county itself investigated?</p>

<p style="text-align: right;">Page 218</p> <p>1 A. That may be something the prosecutor 2 could tell you better than I.</p> <p>3 Q. Do you know how many county 4 investigations have resulted in disciplinary 5 proceedings or criminal charges?</p> <p>6 MR. BADALA: Objection to form. 7 Outside the scope.</p> <p>8 A. I'd have to say, again, you know, 9 the disciplinary process for pharmacies or 10 prescribers would have occurred outside of the 11 county's framework. It would be a state 12 function.</p> <p>13 Q. But you mentioned the county 14 prosecutors. I'll ask you again. Do you know 15 how many county investigations have resulted in 16 criminal charges?</p> <p>17 MR. BADALA: Objection to form.</p> <p>18 A. I'd have to say again the county 19 prosecutor is in a better position to answer 20 that than I am.</p> <p>21 Q. Has there been diversion occurring 22 that the county has not investigated?</p> <p>23 A. I guess there's diversions they 24 don't know about.</p> <p>25 Q. Other than not knowing, is there any</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. And that's a local law enforcement 2 function, not a county function, true?</p> <p>3 A. Exactly. Right. Cleveland is their 4 biggest city, but it's not under the county's 5 direction.</p> <p>6 Q. So how many cases related to the use 7 of illegal opioids has the county investigated, 8 including heroin and fentanyl?</p> <p>9 A. Tough question. I can tell you how 10 many fatalities we've had. How many overdoses 11 potentially --</p> <p>12 Q. I'm --</p> <p>13 A. -- I couldn't give a specific answer 14 because that's one of the challenges we faced, 15 in terms of identifying impacts of illegal 16 opioids, is if we try to track emergency room 17 data, they're not always coded appropriately or 18 they may be coded as something different. So I 19 think that would be a very tough number to 20 actually get in terms of the impact of illegal 21 opioids and what might have been followed up on, 22 what might not have. I don't know.</p> <p>23 Q. So the answer is in the end you 24 don't know, right?</p> <p>25 A. Give me your question again. I</p>
<p style="text-align: right;">Page 219</p> <p>1 reason the county hasn't investigated diversion 2 more?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 A. Not that I know of.</p> <p>5 Q. Has the county dedicated resources 6 specifically to the investigation of drug 7 diversion?</p> <p>8 A. Through the sheriff's office, again, 9 as a local law enforcement agency I'd have to 10 say, but again, a lot of these investigations do 11 not start at the county level. They start with 12 local law enforcement.</p> <p>13 Q. And are you aware of any local law 14 enforcement, including the county sheriff, 15 dedicating resources specifically to the 16 investigation of drug diversion?</p> <p>17 MR. BADALA: Objection to form. 18 Outside the scope.</p> <p>19 A. I don't know. I want to say that I 20 anecdotally heard that Cleveland -- the City of 21 Cleveland had done that, but I don't know that 22 for certain. They had a narcotics unit, and I 23 believe they were investigating diversion as 24 part of their duties, but it's outside the scope 25 of what I know for certain.</p>	<p style="text-align: right;">Page 221</p> <p>1 really feel like I'm not helping, but I want to.</p> <p>2 Q. How many cases relating to illegal 3 opioids, including heroin and fentanyl and 4 carfentanil and others, has the county 5 investigated?</p> <p>6 MR. BADALA: Objection to form. 7 Outside the scope.</p> <p>8 A. I'd have to say I don't know and I 9 don't know if it's knowable.</p> <p>10 Q. Do county agencies prescribe 11 opioids?</p> <p>12 MR. BADALA: Objection to form. 13 Outside the scope.</p> <p>14 A. I know opioids are prescribed at the 15 jail as part of the medical treatment. I 16 believe the jail is staffed by MetroHealth 17 Medical Center for care. Other than that, I 18 don't know that they're prescribing opioids.</p> <p>19 Q. Do county-affiliated hospitals or 20 healthcare facilities prescribe opioids?</p> <p>21 MR. BADALA: Same objections.</p> <p>22 A. Our county-affiliated hospital is 23 the MetroHealth Medical Center, so it would be 24 the same one that services the jail. It's a 25 large hospital. They would prescribe opioids</p>



<p style="text-align: right;">Page 222</p> <p>1 for certain.</p> <p>2 Q. And has the county ever investigated</p> <p>3 diversion that might be occurring in connection</p> <p>4 with patients being treated by county</p> <p>5 representatives, either in the jail or at the</p> <p>6 hospital?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 Outside the scope.</p> <p>9 A. I do know that the MetroHealth</p> <p>10 Medical Center initiated an office of opioid</p> <p>11 safety, and one of the functions of that would</p> <p>12 be to investigate prescribing practices within</p> <p>13 the county hospital, within MetroHealth Medical</p> <p>14 Center, and then there would be a loop</p> <p>15 potentially closing back on individuals who were</p> <p>16 identified who might have been overprescribing</p> <p>17 or felt to be overprescribing outside of the</p> <p>18 basic, you know, metrics that they were using.</p> <p>19 I don't know what those metrics are, but there</p> <p>20 was definitely feedback in that office of opioid</p> <p>21 safety to the prescribers within that system,</p> <p>22 and they would be the prescribers in the jail as</p> <p>23 well because they oversee the jail -- healthcare</p> <p>24 service at the jail. They don't oversee the</p> <p>25 whole jail. And I think, you know, that office</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. Has the county ever asked for ARCOS</p> <p>2 data at any time?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 A. In my discussion with the DEA</p> <p>5 representative, he said that that access would</p> <p>6 never have occurred, so I don't think we ever</p> <p>7 asked.</p> <p>8 Q. That conversation occurring last</p> <p>9 Friday, true?</p> <p>10 A. Yeah, but, you know, I sit on the</p> <p>11 task force with this fellow and he was certainly</p> <p>12 aware of their database, I was aware of it, and</p> <p>13 it was never volunteered because we could not</p> <p>14 access it.</p> <p>15 Q. So you have interfaced with DEA?</p> <p>16 A. Absolutely.</p> <p>17 Q. And during that time have you ever</p> <p>18 asked for access to ARCOS data?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 A. I guess no because we knew we</p> <p>21 weren't going to get it.</p> <p>22 Q. Well -- but if the county is</p> <p>23 concerned with drug diversion and the abuse of</p> <p>24 drugs, wouldn't that information be useful to</p> <p>25 you?</p>
<p style="text-align: right;">Page 223</p> <p>1 of opioid safety would also be overseeing those</p> <p>2 physicians as well.</p> <p>3 Q. Have there been any criminal charges</p> <p>4 or disciplinary proceedings arising from that</p> <p>5 investigation?</p> <p>6 A. I do not know.</p> <p>7 Q. Are you familiar with the ARCOS</p> <p>8 database, Doctor?</p> <p>9 A. In a very general way.</p> <p>10 Q. Are you aware that ARCOS is a</p> <p>11 database through which distributors and</p> <p>12 manufacturers report controlled substances</p> <p>13 transactions to the DEA?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever -- has the county ever</p> <p>16 had access to the ARCOS data?</p> <p>17 A. No. I know recently the county's</p> <p>18 attorneys received information related to the</p> <p>19 ARCOS database, but the county itself has no</p> <p>20 direct access to that.</p> <p>21 Q. So you're aware that the county,</p> <p>22 through its attorneys, was granted access to</p> <p>23 ARCOS data in 2018, but the county itself has</p> <p>24 not seen those data; is that what you're saying?</p> <p>25 A. That's -- that's correct.</p>	<p style="text-align: right;">Page 225</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 A. Absolutely. Yes, it would have been</p> <p>3 very helpful.</p> <p>4 Q. But you never asked DEA about it,</p> <p>5 did you?</p> <p>6 A. Because we knew that we weren't</p> <p>7 going to have -- or they never made it any</p> <p>8 clearer to us that it was not something we as a</p> <p>9 county would have access to.</p> <p>10 Q. They never offered, right?</p> <p>11 A. They never offered.</p> <p>12 Q. And you never asked, right?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 A. No. I guess because we just didn't</p> <p>15 think that that was going to happen.</p> <p>16 Q. Are you familiar with the term</p> <p>17 "suspicious order report"?</p> <p>18 A. No.</p> <p>19 Q. Is the county familiar with the</p> <p>20 requirements that DEA registrants have for</p> <p>21 reporting suspicious orders of controlled</p> <p>22 substances to the DEA?</p> <p>23 A. In a general way, yes.</p> <p>24 Q. Has the county ever seen a</p> <p>25 suspicious order report?</p>

<p style="text-align: right;">Page 226</p> <p>1 A. To the best of my knowledge, no.</p> <p>2 Q. Has the county ever asked DEA for</p> <p>3 information or access to suspicious order</p> <p>4 reports?</p> <p>5 A. We have not, but again, my</p> <p>6 understanding is that that wouldn't be something</p> <p>7 that would be granted to the county, so we</p> <p>8 didn't ask.</p> <p>9 Q. The answer is you didn't ask, true?</p> <p>10 A. We did not ask.</p> <p>11 Q. So if the county, again, was</p> <p>12 concerned or is concerned with diversion and</p> <p>13 abuse of controlled substances, wouldn't that</p> <p>14 information have been useful to the county?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 A. Sure would have, yeah.</p> <p>17 Q. Now, we've talked quite a lot</p> <p>18 already about the OARRS database, right?</p> <p>19 A. Yes.</p> <p>20 Q. Let me ask you flat out, Doctor.</p> <p>21 What is the OARRS database?</p> <p>22 A. It's a prescription drug monitoring</p> <p>23 program that's operated at the state level, and</p> <p>24 in Ohio we call it OARRS. It has other names in</p> <p>25 different states.</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. So you don't recall why you just</p> <p>2 said that distributors had access to OARRS data?</p> <p>3 A. Well, I was thinking distributor</p> <p>4 pharmacists, the pharmacies.</p> <p>5 Q. Okay. I just wanted to clear that</p> <p>6 up.</p> <p>7 A. Distributors -- I'd have to say I</p> <p>8 don't remember that detail.</p> <p>9 Q. So the OARRS system has information</p> <p>10 on all outpatient prescriptions for controlled</p> <p>11 substances and other -- a few other drugs,</p> <p>12 right?</p> <p>13 A. When it started, the data that was</p> <p>14 entered was from pharmacies, and then in 2011</p> <p>15 there were requirements to enter data from</p> <p>16 medications that were being dispensed from</p> <p>17 prescriber's offices, so they wouldn't</p> <p>18 necessarily have gotten into a pharmacy.</p> <p>19 Q. And then drug wholesalers were also</p> <p>20 required to submit information to the OARRS</p> <p>21 database, true?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 A. I'd have to say I believe so, but I</p> <p>24 don't remember. I know that it was pharmacy</p> <p>25 data.</p>
<p style="text-align: right;">Page 227</p> <p>1 The function of it is to provide a</p> <p>2 database of prescribed controlled substances.</p> <p>3 The OARRS database was formed in 2006,</p> <p>4 legislation I think enabled it in 2005, and then</p> <p>5 it became operational towards the end of 2006.</p> <p>6 It was formed at least in response to Kentucky</p> <p>7 forming a prescription drug monitoring system</p> <p>8 and a concern that Kentucky residents were</p> <p>9 coming to Ohio, where we were not monitoring</p> <p>10 these things, for drug -- obtaining drugs.</p> <p>11 So data started to be collected, and</p> <p>12 then, going forward, pharmacies would enter the</p> <p>13 data from prescribing information into OARRS,</p> <p>14 and then that could be accessed by prescribers,</p> <p>15 law enforcement, and I believe distributors at</p> <p>16 different levels, partly if there was an active</p> <p>17 investigation.</p> <p>18 Q. What do you base that understanding</p> <p>19 on, that the distributors had access to the</p> <p>20 OARRS data?</p> <p>21 A. It's my recollection of my</p> <p>22 conversation with the director of OARRS. Or</p> <p>23 maybe it was at a pharmacy level. I don't</p> <p>24 remember. I don't want to be dogmatic about</p> <p>25 that. I don't recall.</p>	<p style="text-align: right;">Page 229</p> <p>1 Q. OARRS has been a helpful tool in</p> <p>2 identifying drug diversion, right?</p> <p>3 A. I said it. So did the prosecutor.</p> <p>4 Yes, it has.</p> <p>5 Q. Has the county ever used OARRS data?</p> <p>6 A. We've used it at the medical</p> <p>7 examiner's office extensively.</p> <p>8 Q. Let's start with that. So how has</p> <p>9 the medical examiner's office used OARRS data?</p> <p>10 A. We especially used it when we became</p> <p>11 aware of the heroin crisis in our county, and</p> <p>12 what we were trying to do at that point was to</p> <p>13 see if what we were hearing anecdotally, that</p> <p>14 this represented a shift from the prescription</p> <p>15 pain medications to the illicit heroin was</p> <p>16 referable back to the prescribing practices of</p> <p>17 these individuals who had died of heroin</p> <p>18 overdose. So, as I said, we started to collect</p> <p>19 that data in a de-identified form in 2012. We</p> <p>20 continued until we got full access in 2013, and</p> <p>21 we continue to collect the data and have that</p> <p>22 access with the idea of trying to stay relevant</p> <p>23 as our crisis evolves, so that -- now heroin,</p> <p>24 and we've evolved to fentanyl, and those still</p> <p>25 have very high rates of OARRS files being</p>

<p style="text-align: right;">Page 230</p> <p>1 created. They've received prescription opioids.</p> <p>2 Q. So we've talked a little bit about</p> <p>3 that, the data analysis you've done. Is there</p> <p>4 any other use of OARRS data? For example, when</p> <p>5 you have a subject, a decedent, does the office</p> <p>6 do anything with OARRS data in connection with</p> <p>7 that decedent?</p> <p>8 A. I mean, you know, as I mentioned</p> <p>9 before, if we see multiple prescribers, we will</p> <p>10 start to alert investigative agencies about</p> <p>11 that.</p> <p>12 Q. Do you try to pull an OARRS file for</p> <p>13 every decedent, Doctor?</p> <p>14 A. We have tried to pull an OARRS file</p> <p>15 for every heroin overdose from 2012 forward and</p> <p>16 for every fentanyl overdose, and that started</p> <p>17 actually when the fentanyl part of the crisis</p> <p>18 got worse, which was 2015.</p> <p>19 Q. Let's look through some documents</p> <p>20 and try to nail down this a little bit, Doctor.</p> <p>21 I'm going to mark this as the next in order.</p> <p>22 THE WITNESS: Would this be a good</p> <p>23 time for a break?</p> <p>24 MR. BADALA: Yeah. We've been going</p> <p>25 about an hour. Let's take a five-minute break.</p>	<p style="text-align: right;">Page 232</p> <p>1 who were present. I can't say they were always</p> <p>2 at every meeting, but they certainly were</p> <p>3 represented there. Individuals from the</p> <p>4 treatment and recovery community sober houses</p> <p>5 and those individuals.</p> <p>6 I'm sort of running around the table</p> <p>7 in my head who might be sitting there, and I may</p> <p>8 have overlooked somebody, but that's a good</p> <p>9 starting list, I would guess.</p> <p>10 Q. Have you covered both task forces</p> <p>11 you referred to?</p> <p>12 A. Thinking more of the U.S. Attorney's</p> <p>13 with Carole, but I would say there was a lot of</p> <p>14 overlap between the two, and that the health</p> <p>15 department was more Cuyahoga County, so the City</p> <p>16 of Cleveland's health department was not there.</p> <p>17 There would be presentations from different</p> <p>18 people, too, like community groups that were</p> <p>19 trying to address, you know, interventions,</p> <p>20 educational strategies. That would have been</p> <p>21 more likely at the Board of Health, but there</p> <p>22 were also, you know, individuals who were</p> <p>23 representing education at the U.S. Attorney's</p> <p>24 task force as well.</p> <p>25 Q. Were there any private citizens as</p>
<p style="text-align: right;">Page 231</p> <p>1 MR. BORANIAN: Okay.</p> <p>2 THE VIDEOGRAPHER: Off the record at</p> <p>3 2:33 p.m.</p> <p>4 (Recess had.)</p> <p>5 THE VIDEOGRAPHER: Back on the</p> <p>6 record at 2:49 p.m.</p> <p>7 BY MR. BORANIAN:</p> <p>8 Q. Dr. Gilson, you've made reference a</p> <p>9 couple of times to a task force or task forces</p> <p>10 --</p> <p>11 A. There are two essentially in our</p> <p>12 county, yes.</p> <p>13 Q. -- including one involving Attorney</p> <p>14 Carole Rendon. Can you tell me who else is on</p> <p>15 those two task forces?</p> <p>16 A. We would be, the county, the medical</p> <p>17 examiner's office. City of Cleveland would have</p> <p>18 their public health -- or health department</p> <p>19 individuals, as well as police department. The</p> <p>20 County Board of Health would have representation</p> <p>21 there, individuals from MetroHealth Medical</p> <p>22 Center, Dr. Papp from Project DAWN. Cleveland</p> <p>23 Clinic would have a representative I'm certain.</p> <p>24 There were individuals from the governor's</p> <p>25 office and the State Attorney General's office</p>	<p style="text-align: right;">Page 233</p> <p>1 members of either of those task forces?</p> <p>2 A. I think the individuals in the</p> <p>3 recovery community were essentially there as</p> <p>4 private citizens. I mean, they were, you know,</p> <p>5 representing that viewpoint, which is very</p> <p>6 valuable to us. But in terms of just an</p> <p>7 at-large member from the county, that I don't</p> <p>8 think we had.</p> <p>9 Q. And I should have asked you this</p> <p>10 first, but can you please name for us the two</p> <p>11 task forces?</p> <p>12 A. I call them, and I hope this will be</p> <p>13 clear enough -- I don't know what their formal</p> <p>14 names are as I sit here, but the Cuyahoga County</p> <p>15 Board of Health task force, which was in the</p> <p>16 injury prevention program at the Board of</p> <p>17 Health. That's Vince Caraffi, who is the one</p> <p>18 that chaired that up until recently. He stepped</p> <p>19 down, and April Vince is in charge of that</p> <p>20 coordination now.</p> <p>21 The second one was the U.S.</p> <p>22 Attorney's task force, which I mentioned, and</p> <p>23 that was convened with Steve Dettelbach, who was</p> <p>24 our U.S. Attorney at the time it started, and he</p> <p>25 had called our summit at the Cleveland Clinic at</p>

<p style="text-align: right;">Page 234</p> <p>1 the end of 2013. Steve Dettelbach was replaced  2 by Carole Rendon, who was our U.S. Attorney.  3 Q. I think you've answered the  4 question, Doctor.  5 MR. BADALA: Were you done answering  6 the question?  7 Q. The question was what were the two  8 task forces, and you've now named two task  9 forces.  10 A. Oh, okay.  11 - - - - -  12 (Thereupon, Gilson Deposition  13 Exhibit 9, E-Mail String, Beginning  14 Bates Number CUYAH_001709118 -  15 Marked Confidential, was marked for  16 purposes of identification.)  17 - - - - -  18 Q. Let me direct your attention to  19 Exhibit 9, Dr. Gilson. Is this an e-mail  20 exchange in February 2013 between you and  21 someone named Rose and an attorney at the Board  22 of Pharmacy named Danna Droz?  23 A. Yes.  24 Q. If you go to the second page on the  25 back of the document there, Danna Droz writes in</p>	<p style="text-align: right;">Page 236</p> <p>1 your office, true?  2 A. We had aggregate data that was  3 supplied by the Board of Pharmacy through OARRS  4 for 2012. We were not granted full access to  5 that data.  6 Q. Well, did you -- I'm not asking  7 about full access to aggregated data. I'm  8 asking about access to an OARRS report for a  9 subject being investigated in the medical  10 examiner's office. You had access to those  11 reports for the individuals you were  12 investigating even prior to 2013, right?  13 MR. BADALA: Objection to form.  14 A. We had incomplete access to those  15 individuals.  16 Q. If an individual died in 2010 and  17 was under investigation in your office, you had  18 access to that individual's OARRS report, true?  19 MR. BADALA: Objection to form.  20 A. Again, I would say not the full  21 report, but we had access to some of their OARRS  22 report, yes.  23 Q. You had access to that individual's  24 prescription history, right?  25 MR. BADALA: Objection to form.</p>
<p style="text-align: right;">Page 235</p> <p>1 the second paragraph, "In talking with  2 Dr. Gilson, he wants to obtain data on persons  3 who died sometime in the past for research  4 purposes. His right to obtain identified data  5 is limited to persons with whom he is currently  6 involved. So he may request an OARRS report  7 during the process of an autopsy or death  8 investigation. He cannot request retrospective  9 data even though he could have requested it at  10 the time of death."  11 Is that what it says, Doctor?  12 A. That's my understanding of it, yes.  13 Could I finish reading it just for a second?  14 Q. Are you finished, Doctor?  15 A. Give me just a second.  16 Q. Just look at me when you're done.  17 A. Okay.  18 Q. So in February of 2013 you had  19 access to OARRS for any subject that was  20 currently under investigation in your office,  21 true?  22 A. That's what this reads, yes.  23 Q. And that was true even before 2013,  24 right; that is, you had access to OARRS reports  25 for individuals who you were investigating in</p>	<p style="text-align: right;">Page 237</p> <p>1 A. We had access to the prescription  2 history, but not to the prescriber information,  3 yes.  4 Q. And that's true since the inception  5 of OARRS in 2006, you had that particular  6 access, right?  7 MR. BADALA: Objection to form.  8 A. I requested access to OARRS. I  9 don't believe the agency, the coroner's office,  10 had that access. I don't know that they pursued  11 it or if they were even aware of it. I became  12 aware of it and that's when I started to pursue  13 it.  14 Q. Whether the office was aware of it  15 prior to 2012, the office could have requested  16 and could have received an OARRS report for an  17 individual it was investigating as early as  18 inception of the program, true?  19 MR. BADALA: Objection to form.  20 A. I can't answer that because I had a  21 lot of difficulty myself obtaining that access.  22 Q. Well, when you asked for access,  23 they told you that you can have access for an  24 individual during the process of an autopsy,  25 right? That's what they told you, right?</p>

<p style="text-align: right;">Page 238</p> <p>1 A. That's what this says here, but --</p> <p>2 Q. And that access was available to you</p> <p>3 since the inception of the program, you just</p> <p>4 never asked, right?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 A. I was obtaining this, you know,</p> <p>7 trying to reach out to get this for a period of</p> <p>8 time before this and not getting a lot of</p> <p>9 headway with it.</p> <p>10 In 2017 the Board of Pharmacy</p> <p>11 actually created a special designation based on</p> <p>12 discussions that we were having around this for</p> <p>13 coroners and medical examiners to guarantee they</p> <p>14 would have access. A lot of the coroners in</p> <p>15 Ohio are elected physicians who are not trained,</p> <p>16 like me, to be death investigators, so they</p> <p>17 could access OARRS through their own DEA license</p> <p>18 because they were prescribers. I could not</p> <p>19 because I did not have a DEA license, and as I</p> <p>20 tried to go into this to obtain the access, my</p> <p>21 recollection, as the medical examiner, an agent</p> <p>22 of the county, was that that was difficult</p> <p>23 because I was not treating people with opioids.</p> <p>24 Q. You keep saying when you obtained</p> <p>25 access, Doctor. As a matter of fact, the</p>	<p style="text-align: right;">Page 240</p> <p>1 investigating?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 A. No.</p> <p>4 Q. So you mentioned, Doctor, that you</p> <p>5 had eventually received de-identified data?</p> <p>6 A. Yes, I did.</p> <p>7 - - - - -</p> <p>8 (Thereupon, Gilson Deposition</p> <p>9 Exhibit 10, Article Entitled "The</p> <p>10 Cuyahoga County Heroin Epidemic,"</p> <p>11 was marked for purposes of</p> <p>12 identification.)</p> <p>13 - - - - -</p> <p>14 Q. And let me show you Exhibit 10,</p> <p>15 which is an article you published in 2014, and</p> <p>16 this article describes de-identified data --</p> <p>17 analysis of de-identified data for 2012</p> <p>18 fatalities; is that right?</p> <p>19 A. What page are you at?</p> <p>20 Q. Just take a look at the abstract.</p> <p>21 It says in the third paragraph, "The medical</p> <p>22 examiner's office conducted a retrospective</p> <p>23 analysis of 2012 fatalities to identify</p> <p>24 potential risk factors and intervention points."</p> <p>25 That's the de-identified data you received from</p>
<p style="text-align: right;">Page 239</p> <p>1 medical examiner's office has always had access</p> <p>2 to OARRS and to an OARRS report, including</p> <p>3 prescribing history, for as long as OARRS has</p> <p>4 been in inception; is that right?</p> <p>5 MR. BADALA: Objection to form.</p> <p>6 Q. You may not have had access to</p> <p>7 retrospective de-identified data before you</p> <p>8 asked in 2013, but, like we said, in 2010 or</p> <p>9 2008, if you had a subject you were</p> <p>10 investigating, you could get that person's</p> <p>11 prescription history, true?</p> <p>12 MR. BADALA: Objection to form.</p> <p>13 A. I don't think that was actually my</p> <p>14 experience in 2011 when I started the process.</p> <p>15 Q. Did you ask before 2013?</p> <p>16 A. Yes, I did.</p> <p>17 Q. What did you ask for before 2013?</p> <p>18 A. I wanted access to the OARRS</p> <p>19 database to see if we could establish the</p> <p>20 relationship between the 2000 -- pardon me, the</p> <p>21 heroin epidemic and the prescribing practices of</p> <p>22 those decedents before they died.</p> <p>23 Q. And had you ever -- before placing</p> <p>24 that request in 2012, had you ever requested an</p> <p>25 OARRS report for an individual you were</p>	<p style="text-align: right;">Page 241</p> <p>1 OARRS, true?</p> <p>2 A. The OARRS data is part of that. We</p> <p>3 were identifying a lot of different things in</p> <p>4 terms of what we were looking at here to try to</p> <p>5 see if we could identify intervention points.</p> <p>6 The OARRS data at that time, as I say, was</p> <p>7 de-identified and incomplete, but we mentioned</p> <p>8 it as much as it was helpful and relevant to the</p> <p>9 investigation, retrospective investigation of</p> <p>10 these fatalities.</p> <p>11 Q. So Exhibit 10 is an article that you</p> <p>12 published, right?</p> <p>13 A. Yes, it is.</p> <p>14 Q. And it's titled "The Cuyahoga County</p> <p>15 Heroin Epidemic," right?</p> <p>16 A. Yes, it is.</p> <p>17 Q. This article reports on your</p> <p>18 analysis of 161 heroin-related deaths in 2012,</p> <p>19 true?</p> <p>20 A. Yes. We actually excluded one of</p> <p>21 them because it was a stillborn and our feeling</p> <p>22 was that that really wasn't relevant to the</p> <p>23 population we wanted to look at.</p> <p>24 Q. And one of the observations that you</p> <p>25 made was that a prescription for legal</p>



<p style="text-align: right;">Page 242</p> <p>1 controlled substances was noted in 64 percent of 2 deaths associated with heroin, true? 3 A. What page are you on? It sounds 4 familiar to me. 5 Q. The abstract, the beginning of the 6 abstract. 7 A. I'm sorry. Yes, that's right. 8 Q. And that's based on that 9 de-identified 2012 OARRS data, right? 10 A. Yes. 11 Q. Now, I've seen this number 64 12 percent in other documents that relate to you 13 and your office. When we see that number, 64 14 percent who had a prescription for legal 15 controlled substances, that number comes from 16 the analysis of the 2012 de-identified OARRS 17 data, right? 18 A. Yes. 19 Q. Now, once you started taking 20 advantage of your access to OARRS in 2013, did 21 you start gathering data prospectively for 22 individuals who the office was investigating? 23 A. We would, in the death review 24 committee, wait a period of a few months for 25 final certification of deaths, and while we were</p>	<p style="text-align: right;">Page 244</p> <p>1 A. We have collected and analyzed data 2 on heroin overdoses through 2016. We recently 3 got a grant for an employee to finish up the 4 work on additional OARRS examination, and we 5 started to look retrospectively at the fentanyl 6 overdose data in 2016, when it became a 7 substantially larger problem. 8 - - - - - 9 (Thereupon, Gilson Deposition 10 Exhibit 11, Document Entitled 11 "Overdose Deaths in Cuyahoga 12 County," Beginning Bates Number 13 CUYAH_001397330, was marked for 14 purposes of identification.) 15 - - - - - 16 Q. This is Exhibit 11, Dr. Gilson. And 17 this cover sheet is merely to note the Bates 18 number, which is Cuyahoga 001397330. The 19 document starts on the second page, Doctor. And 20 this appears to be a set of slides with your 21 name on the first page. 22 Doctor, what is this document? 23 A. It looks like a -- I don't remember 24 which talk it was, but a talk I put together 25 to -- I don't know who the audience was for it.</p>
<p style="text-align: right;">Page 243</p> <p>1 doing that process, we would collect an OARRS 2 file on them. So, in that sense, it's 3 retrospective, we're looking back at their 4 prescription history. 5 Q. Okay. Fair enough. 6 A. Prospectively we're recruiting 7 people, but we're looking retrospectively at 8 their prescription histories. 9 Q. My question is, going forward from 10 2013, you were collecting OARRS reports for each 11 of your subjects, right? 12 A. Right. And at that time, around 13 mid-year, we did get the final access to the 14 prescribers in addition to the drugs that were 15 being prescribed. 16 Q. And have you collected that 17 information from OARRS for each of your subjects 18 since 2013 up until today? 19 A. We're trying. As I said before, you 20 know, just the burden of the extent of the 21 crisis, we have fallen behind on that, so we 22 have -- 23 Q. And -- 24 A. If I could finish. 25 Q. Sure.</p>	<p style="text-align: right;">Page 245</p> <p>1 I didn't specify. A talk of mine, though. 2 Q. I'm trying to figure out when you 3 did this. It might help to look at the fifth 4 page of the presentation. There's a chart there 5 that reflects some 2014 data. So would it be 6 fair to date this in 2015? 7 MR. BADALA: Objection to form. 8 A. Probably, yes. I would not put it 9 any earlier than 2014, and it looks like we have 10 completed data for 2014, so I would say it was 11 into 2015, because you wouldn't have had that 12 data until actually 2015. 13 Q. If you go to the eighth page of the 14 presentation, that's entitled "Heroin Epidemic." 15 It looks like that, Doctor (indicating). 16 A. Let me just get there. 17 Okay. 18 Q. It refers to a 2012 retrospective 19 review, and that's the same review that we just 20 went over in Exhibit 10, the article you wrote, 21 right? 22 A. This is the review that we did at 23 the medical examiner's office using only our 24 data, and we did not have primary sources of 25 information. That would have been in the 2013</p>

<p style="text-align: right;">Page 246</p> <p>1 review. So this paper mentions some things from 2 2013, but I think the gist of the bulk of it is 3 about the 2012 review that we did in the office. 4 Q. The paper referring to Exhibit 10, 5 right? 6 A. Exhibit 10, yes. 7 Q. Okay. Fair enough. 8 The next bullet point there under 9 the Heroin Epidemic title is "2013 prospective 10 review of heroin mortality done with ME staff," 11 et cetera, et cetera, right? 12 A. Right. We assembled people within 13 the room at the ME's office in a committee that 14 I called together to review that data, and the 15 goal was -- for example, in law enforcement we 16 had the sheriffs there, a county officer. He 17 had a representative who could provide 18 information to us, partly on arrests but mostly 19 on incarceration data, because what we were 20 trying to do in this was to identify 21 intervention points, and one of the risk factors 22 for fatal overdose was somebody who was coming 23 out of incarceration or a treatment facility. 24 So that was kind of the makeup of this. 25 Q. So if you go to the next page, we're</p>	<p style="text-align: right;">Page 248</p> <p>1 break, but if you could indulge me, don't go 2 away, Doctor. 3 THE VIDEOGRAPHER: Off the record at 4 3:09 p.m. 5 (Short recess had.) 6 THE VIDEOGRAPHER: Back on the 7 record at 3:10 p.m. 8 BY MR. BORANIAN: 9 Q. This is Exhibit 12. Oops. I marked 10 the wrong one. Hang on. 11 - - - - - 12 (Thereupon, Gilson Deposition 13 Exhibit 12, Document Entitled 14 "Opioid Crisis Response: Examining 15 Overdose Deaths at Cuyahoga County 16 Medical Examiner's Office," with 17 Attached Sheet Bates Numbered 18 CUYAH_001684555 - Marked 19 Confidential, was marked for 20 purposes of identification.) 21 - - - - - 22 Q. This is Exhibit 12, Dr. Gilson. 23 This appears to be a presentation, or maybe a 24 poster, with your name on it, along with 25 Dr. Deo. Can you tell us what this is, Doctor?</p>
<p style="text-align: right;">Page 247</p> <p>1 talking about a set of 194 overdose fatalities, 2 right? 3 A. Right. 4 Q. And that's 2013, right? 5 A. Right. 6 Q. And then if you go three more pages, 7 it says, "PDR Findings." It looks like that 8 (indicating). 9 A. Yes. 10 Q. It says here 73 percent of heroin 11 overdose victims had a file with OARRS, right? 12 A. Right. About three-fourths. 13 Q. Now, we've also seen that number, 73 14 percent, in other documents associated with you 15 or your office. And when we see that, 73 16 percent of heroin overdoses who had an OARRS 17 file, that refers to this 2013 data set, right? 18 A. Right. 19 MR. BORANIAN: I'm told the phone 20 isn't working. I'm not sure what to do about 21 that. 22 MR. GALLUCCI: I think that's 23 probably from before when we heard it right 24 before we took a break. 25 MR. BORANIAN: Okay. Let's take a</p>	<p style="text-align: right;">Page 249</p> <p>1 A. I'm not completely certain, but I 2 think this was a poster that Dr. Deo, who is a 3 student at the Case Western School of Public 4 Health, produced based on research he was doing 5 at our office. 6 Q. So it's entitled "Opioid Crisis 7 Response: Examining Overdose Deaths at Cuyahoga 8 County Medical Examiner's Office," with a Bates 9 number noted on the second page as 001684555, 10 and if you look over at the far right column, 11 Doctor, it says, "OARRS Data, Fentanyl Overdose 12 Deaths February 2017," right? 13 A. Right. 14 Q. Is this part of the analysis of 15 fentanyl deaths in connection with OARRS that 16 you've described before? 17 A. Yes. 18 Q. It says, "55 fentanyl overdose 19 deaths in February 2017," right? 20 A. That was one of the worst months in 21 Cuyahoga County, yes. 22 Q. And the fourth bullet point says 23 that 41 out of 55 had an OARRS file, right? 24 A. That's correct. 25 Q. That's about 80 percent, right?</p>

<p style="text-align: right;">Page 250</p> <p>1 A. Yes.</p> <p>2 Q. Now, you've mentioned earlier in the</p> <p>3 deposition that same number, 80 percent. Is</p> <p>4 this the source for your citation of the 80</p> <p>5 percent figure?</p> <p>6 A. No.</p> <p>7 Q. Okay. Has the medical examiner's</p> <p>8 office done any analysis of fentanyl overdose</p> <p>9 deaths other than what's represented here on</p> <p>10 Exhibit 12?</p> <p>11 A. Yes, we have.</p> <p>12 Q. What is the source of your stated</p> <p>13 opinion that 80 percent of fentanyl deaths have</p> <p>14 a history of prescription medication?</p> <p>15 A. It's this information. I thought</p> <p>16 you said 80 percent of our opioid deaths, heroin</p> <p>17 deaths.</p> <p>18 Q. Maybe I misspoke. I'm sorry,</p> <p>19 Doctor. I haven't looked at the transcript, but</p> <p>20 I think you said earlier today that 80 percent</p> <p>21 of fentanyl deaths have a recent history or a</p> <p>22 history of a prescription drug prescription,</p> <p>23 right?</p> <p>24 A. No. What I said earlier today was</p> <p>25 that approximately 80 percent of the heroin</p>	<p style="text-align: right;">Page 252</p> <p>1 were as short as six months and, at the longest,</p> <p>2 18 months. So I thought that number -- and this</p> <p>3 was one of the reasons I wanted to continue to</p> <p>4 collect the data -- was potentially an</p> <p>5 underestimate.</p> <p>6 When I saw this number, this still</p> <p>7 actually represents, to some extent, a, you</p> <p>8 know, initial period look-back of about two</p> <p>9 years for virtually all of these cases in 2013.</p> <p>10 That was a better look-back period.</p> <p>11 Q. Let me stop you there. When you say</p> <p>12 "this number," which number?</p> <p>13 A. 73 percent.</p> <p>14 Q. Okay. Continue.</p> <p>15 A. Is better data, and that's really</p> <p>16 what we were striving to get to see if we could</p> <p>17 tie the heroin crisis back to opioid pain</p> <p>18 relievers.</p> <p>19 At the time we were collecting this</p> <p>20 data, there was really very little, other than</p> <p>21 anecdotal reports, to say this heroin phase of</p> <p>22 the crisis represented a transition.</p> <p>23 In 2013 substance abuse and mental</p> <p>24 health services published a bulletin, where they</p> <p>25 had gone back and talked to actual heroin users</p>
<p style="text-align: right;">Page 251</p> <p>1 overdose deaths that we had in that phase of the</p> <p>2 crisis had an OARRS file, and that was the 73</p> <p>3 percent that I'm referencing here.</p> <p>4 Q. Okay. So that's where I'm confused</p> <p>5 then. Okay. So what I was seeing for heroin</p> <p>6 deaths is 64 percent based on the 2012</p> <p>7 retrospective data.</p> <p>8 A. Sure.</p> <p>9 Q. I have seen 73 percent based on the</p> <p>10 194 cases in 2013. Doctor, where do you get 80</p> <p>11 percent of heroin-related deaths have an OARRS</p> <p>12 file?</p> <p>13 A. Sure.</p> <p>14 My estimate, if I might say, is that</p> <p>15 we estimated approximately 80 percent of the</p> <p>16 heroin overdose victims had a history of</p> <p>17 receiving prescription pain relievers. I take</p> <p>18 that from this data, the 73 percent. And I'm</p> <p>19 not parsing that for, you know, this is closer</p> <p>20 to what I want.</p> <p>21 The 2012 data, where the 66 percent</p> <p>22 came from, was actually limited in the time of</p> <p>23 look-back because we had delay in getting access</p> <p>24 to OARRS to do the look-back. So some of the</p> <p>25 look-backs we did on heroin overdoses in 2012</p>	<p style="text-align: right;">Page 253</p> <p>1 and said, "How did you get started abusing</p> <p>2 opioids," and that number was 79.5 percent, 80</p> <p>3 percent of those addicts said I started using</p> <p>4 opioid pain relievers. And when they looked the</p> <p>5 other direction, most of the people who were</p> <p>6 abusing opioid pain relievers said no, I never</p> <p>7 started with heroin, I'm abusing this substance.</p> <p>8 So when I saw that number in</p> <p>9 conjunction with this -- and this is again as</p> <p>10 more data is becoming involved -- that's where I</p> <p>11 draw that number of about 80 percent of our</p> <p>12 addicted population come from that transition.</p> <p>13 I can't talk to the people after they died to</p> <p>14 ask them how did you get started, but somebody</p> <p>15 did that, we didn't duplicate that effort, but</p> <p>16 we used this data as a support to that to say,</p> <p>17 listen, almost 80 percent of our overdoses have</p> <p>18 been using prescription opioids, some of them</p> <p>19 with very long track records and, in fact, you</p> <p>20 know, that number is very close to what's being</p> <p>21 quoted from the interviews with the living</p> <p>22 individuals who are abusing heroin currently.</p> <p>23 Q. The 80 percent, then, comes from a</p> <p>24 bulletin that you read, right?</p> <p>25 A. From the substance abuse and mental</p>

<p style="text-align: right;">Page 254</p> <p>1 health services.</p> <p>2 Q. Have you reviewed the data upon</p> <p>3 which they base that bulletin?</p> <p>4 A. Yes, I did.</p> <p>5 Q. And what form did that data take?</p> <p>6 A. They're interviewing heroin addicts,</p> <p>7 current heroin addicts, with the question that I</p> <p>8 said, you know, how did you get started abusing</p> <p>9 opioids, and 80 percent, 79.5 percent said that</p> <p>10 they had started abusing prescription</p> <p>11 medications.</p> <p>12 Q. Did those interviews take into</p> <p>13 account whether those individuals had a</p> <p>14 prescription for the opioid that they say they</p> <p>15 initiated with?</p> <p>16 A. They talked about non-medical pain</p> <p>17 reliever use. I do not know that I remember</p> <p>18 enough detail to say whether they had, in fact,</p> <p>19 obtained those legally or by diversion.</p> <p>20 Q. So you can't tell from those data</p> <p>21 whether the use of prescription opioids was</p> <p>22 legal or illegal for that population, true?</p> <p>23 A. I don't remember exactly the -- what</p> <p>24 that metric was.</p> <p>25 The other thing I wanted to add --</p>	<p style="text-align: right;">Page 256</p> <p>1 go back to review the original research data. I</p> <p>2 didn't understand you if that was what you were</p> <p>3 saying.</p> <p>4 Q. Okay. My question was if you had</p> <p>5 reviewed the data, so I'll ask again.</p> <p>6 Did you review the original research</p> <p>7 data for that bulletin?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 Outside the scope.</p> <p>10 A. No. I reviewed the bulletin and the</p> <p>11 methods that were spelled out in it.</p> <p>12 MR. BADALA: Do you have to take a</p> <p>13 break or anything?</p> <p>14 THE WITNESS: Sure. Okay.</p> <p>15 MR. BADALA: Why don't we take a</p> <p>16 five-minute break.</p> <p>17 THE VIDEOGRAPHER: Off the record at</p> <p>18 3:19 p.m.</p> <p>19 (Recess had.)</p> <p>20 THE VIDEOGRAPHER: Back on the</p> <p>21 record at 3:26 p.m.</p> <p>22 BY MR. BORANIAN:</p> <p>23 Q. So, Dr. Gilson, we've been</p> <p>24 discussing the investigation of diversion and</p> <p>25 overprescription and the use of the OARRS</p>
<p style="text-align: right;">Page 255</p> <p>1 Q. They didn't ask about that in their</p> <p>2 survey, did they?</p> <p>3 A. Pardon?</p> <p>4 MR. BADALA: Were you done?</p> <p>5 Q. They didn't ask about that in their</p> <p>6 survey, did they?</p> <p>7 A. Could I finish the previous thought,</p> <p>8 though?</p> <p>9 Q. Sure.</p> <p>10 A. The other thing I wanted to add</p> <p>11 about that study is they did a ten-year</p> <p>12 look-back. Basically they wouldn't trust the</p> <p>13 addict's memory beyond ten years, so they were</p> <p>14 looking back further than we were with our data.</p> <p>15 So I thought that might have explained some of</p> <p>16 the smaller discrepancy, the 73 percent versus</p> <p>17 the 79 percent, but statistically they were very</p> <p>18 close.</p> <p>19 Q. In what form was that data provided</p> <p>20 to you?</p> <p>21 A. What data was that?</p> <p>22 Q. The data that supported the bulletin</p> <p>23 that you reviewed. You said you reviewed the</p> <p>24 data. In what form was it?</p> <p>25 A. I reviewed the bulletin. I didn't</p>	<p style="text-align: right;">Page 257</p> <p>1 database. Has the county made any other uses of</p> <p>2 the OARRS database beyond what we've already</p> <p>3 discussed?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 Q. Not just your office, the whole</p> <p>6 county.</p> <p>7 A. We're obviously sharing our data at</p> <p>8 these task forces, including the data that we've</p> <p>9 gleaned from OARRS -- by "we" in this case, I'm</p> <p>10 putting on my medical examiner hat -- and</p> <p>11 impacts that could have on law enforcement,</p> <p>12 prosecutions, things like that. I can't</p> <p>13 necessarily quantitate, but the collaborative</p> <p>14 effort that we created I think with this data</p> <p>15 and pointing it back towards opioid pain</p> <p>16 relievers I think is kind of a ripple effect of</p> <p>17 using the OARRS system.</p> <p>18 Specifics in terms of using the</p> <p>19 OARRS system, I'm aware some jurisdictions use</p> <p>20 it to identify doctors to sign death</p> <p>21 certificates. We have not done that.</p> <p>22 Q. Do you know who the OARRS</p> <p>23 registrants are within the county, people who</p> <p>24 actually have an OARRS access set of</p> <p>25 credentials?</p>



<p style="text-align: right;">Page 258</p> <p>1 A. Within the county itself?</p> <p>2 Q. Yes.</p> <p>3 A. As county representatives or just</p> <p>4 the whole county?</p> <p>5 Q. As representatives of the county,</p> <p>6 for example, the sheriff's office or protective</p> <p>7 services or the medical examiner.</p> <p>8 A. I would know that the physicians at</p> <p>9 the county hospital would all have OARRS access</p> <p>10 because that was actually part of an initiative</p> <p>11 in 2015, to have all of the medical</p> <p>12 practitioners have access to OARRS, and then I</p> <p>13 think the pharmacists are similar, that they</p> <p>14 have to have access, so I would think pharmacy</p> <p>15 personnel at our county hospital would have</p> <p>16 that; jail, by extension, as we covered that,</p> <p>17 would have access. And we in the medical</p> <p>18 examiner's office. The sheriff, unless it's</p> <p>19 through a law enforcement, which I'm not aware</p> <p>20 of -- I don't know if they do or do not. Other</p> <p>21 law enforcement agencies I believe do, but</p> <p>22 they're not county representatives.</p> <p>23 Q. Does the county sheriff ever</p> <p>24 directly access the OARRS database?</p> <p>25 A. I do not know. I don't know. As I</p>	<p style="text-align: right;">Page 260</p> <p>1 file system for county investigations of</p> <p>2 overprescribing of medicine?</p> <p>3 A. Again, at our county hospital, with</p> <p>4 the office of opioid affairs that was opened,</p> <p>5 they review prescribing practices with opioid</p> <p>6 pain relievers with the idea of addressing</p> <p>7 apparent overprescribing with practitioners that</p> <p>8 they identify.</p> <p>9 Q. When a physician is under</p> <p>10 investigation for participating in illegal</p> <p>11 diversion, does the county take steps to stop</p> <p>12 the behavior during the investigation?</p> <p>13 A. Are we talking -- I'm a little</p> <p>14 confused -- pill mill scenario or something like</p> <p>15 that or --</p> <p>16 Q. Yeah, any doctor under</p> <p>17 investigation, whether a county employee or</p> <p>18 someone running a pill mill, someone running a</p> <p>19 pain clinic. If that doctor is under</p> <p>20 investigation, does the county take any steps to</p> <p>21 stop the illegal activity while the</p> <p>22 investigation is going on?</p> <p>23 A. I mean, ultimately they would arrest</p> <p>24 them, I guess, if they were founded in the</p> <p>25 evidence collection period. I guess until you</p>
<p style="text-align: right;">Page 259</p> <p>1 said, they have access. They can have access</p> <p>2 through law enforcement.</p> <p>3 Q. So other than your office, are you</p> <p>4 aware of any other county office that makes</p> <p>5 direct access to the OARRS database?</p> <p>6 A. Oh, I'm sorry if I wasn't clear.</p> <p>7 The county hospital has to have that access with</p> <p>8 its practitioners and its pharmacy.</p> <p>9 Q. Anyone else? Any other agencies?</p> <p>10 A. Can I look at the org chart? I</p> <p>11 can't see anybody here I could say with</p> <p>12 certainty has access.</p> <p>13 Q. Is there any database or central</p> <p>14 file system for cases investigating drug</p> <p>15 diversion?</p> <p>16 MR. BADALA: Objection to form.</p> <p>17 A. At the county level or --</p> <p>18 Q. Yes.</p> <p>19 A. Unless it's in the county</p> <p>20 prosecutor's office, I'm not aware of one. I</p> <p>21 know they have a unit who would be investigating</p> <p>22 cases for prosecution, but otherwise, most of</p> <p>23 the investigation of diversion and things like</p> <p>24 that I think would be at a state level.</p> <p>25 Q. Is there any central database or</p>	<p style="text-align: right;">Page 261</p> <p>1 really know that it's a crime --</p> <p>2 Q. Short of arresting somebody, is</p> <p>3 anything done to stop the behavior that is under</p> <p>4 investigation?</p> <p>5 A. If I can go back to the county</p> <p>6 hospital, the example with the office of opioid</p> <p>7 affairs there, yes, they are liaised with --</p> <p>8 through the medical staff and the practices are</p> <p>9 described. And I don't think it's an immediate</p> <p>10 you're doing the wrong thing so much as they</p> <p>11 require an explanation, and if that explanation</p> <p>12 isn't satisfactory, then they're remediated to,</p> <p>13 you know, prescribing practices, maybe</p> <p>14 reacquaintance with CDC prescribing guidelines</p> <p>15 from 2016 or something like that as a basis.</p> <p>16 Q. Now, Doctor, I'm also going to ask</p> <p>17 you about topic number 27, which is "Knowledge</p> <p>18 of and access to data concerning prescription</p> <p>19 opioid manufacturing, prescribing, distribution,</p> <p>20 or dispensing." We've already gone through</p> <p>21 ARCOS and OARRS and a few others. I'm not going</p> <p>22 to repeat that.</p> <p>23 So here's my question, Doctor: Are</p> <p>24 there other databases that the county could use</p> <p>25 to gain information about the manufacturing,</p>



<p style="text-align: right;">Page 262</p> <p>1 prescribing, distribution or dispensing of 2 opioids?</p> <p>3 A. I just want to say, for clarity, we 4 do not have access to the ARCOS database, so we 5 could not access that.</p> <p>6 And then OARRS is really the best 7 access that I know of we have for data 8 concerning at least dispensing and distribution. 9 Manufacture, we don't have any independent 10 access to that. And prescribing obviously does 11 come through the OARRS database.</p> <p>12 Q. Do you have any access to any 13 databases from the Department of Health?</p> <p>14 A. We are in task forces with the 15 Department of Health, and if I understand, 16 county department of health or state department 17 of health, city department of health?</p> <p>18 Q. Well, I was referring to the state 19 department of health, so let's start with that. 20 Do they have any databases that you have access 21 to regarding the manufacture and distribution, 22 dispensing, et cetera, of opioids?</p> <p>23 A. I don't know where the Board of 24 Pharmacy sits, if that sits in the Department of 25 Health, but we maintain that relationship with</p>	<p style="text-align: right;">Page 264</p> <p>1 and it's authored purportedly by the Ohio 2 Department of Health. It has a number of 3 statistics and bullet points in it. On page 12, 4 for example, it has numbers for unintentional 5 drug overdoses. On pages 30, 31 and 32 there's 6 some statistics purporting to identify how this 7 occurred. The document is entitled "Ohio's 8 Prescription Drug Overdose Epidemic."</p> <p>9 My question is, do you know where 10 these data came from?</p> <p>11 A. There's a lot of data in this. 12 Could you be a little more specific?</p> <p>13 Q. Well, let's start with the chart 14 that I identified, the one on page 12, 15 unintentional drug overdoses. Do you know where 16 these data came from?</p> <p>17 MR. BADALA: Objection to form. 18 Outside the scope.</p> <p>19 A. They list their data sources at the 20 bottom of the page.</p> <p>21 Q. Okay. And so does the county have 22 access to these same data sources?</p> <p>23 A. I don't know if we have access to 24 the Wonder data, or if that's pushed downward 25 towards state departments of health. That's a</p>
<p style="text-align: right;">Page 263</p> <p>1 Department of Health through our task forces. I 2 don't have any databases I could steer you 3 towards about those topics.</p> <p>4 Q. I'm going to mark this as the next 5 exhibit, which is number 12. And this is a 6 relatively long one, Doctor, but my question is 7 going to be specific. This is a document that 8 appears to have -- we're at 13.</p> <p>9 - - - - -</p> <p>10 (Thereupon, Gilson Deposition 11 Exhibit 13, Document Entitled "Ohio 12 Department of Health, Ohio's 13 Prescription Drug Overdose Epidemic: 14 Epidemiology, Contributing Factors 15 and Ongoing Prevention Efforts," 16 Beginning Bates Number 17 CUYAH_001547662 - Marked 18 Confidential, was marked for 19 purposes of identification.)</p> <p>20 - - - - -</p> <p>21 MR. BORANIAN: Can you mark that 22 number 13, Doctor, or Sal?</p> <p>23 Thanks.</p> <p>24 Q. This is a document that's Bates 25 label is 001547662. It's dated April 17, 2014</p>	<p style="text-align: right;">Page 265</p> <p>1 CDC function and they tend to collaborate more 2 with state departments of health. I don't think 3 there would have been any impediment to us 4 necessarily getting that from the Department of 5 Health, but it might not have come directly to 6 us. The Office of Vital Statistics we 7 contribute towards. And, again, that 8 information gets tabulated. It takes a very 9 long time, though, for death certificate data to 10 get tabulated just because of an inherent lag 11 that can be sometimes up to two years behind 12 real time.</p> <p>13 Q. So the Office of Vital Statistics is 14 listed as a source on many of these slides. 15 Just to clarify, does the county have access -- 16 I know you contribute to that database, but does 17 the county have access to that database?</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 A. To search that database?</p> <p>20 Q. Yes.</p> <p>21 A. I don't know. I certainly would see 22 no reason we couldn't query the Ohio Department 23 of Health for that.</p> <p>24 Q. Are you familiar with SAMHSA data, 25 S-A-M-H-S-A, data?</p>

<p style="text-align: right;">Page 266</p> <p>1 A. I had mentioned SAMHSA earlier, yes.</p> <p>2 Q. What is that data?</p> <p>3 A. That's the Substance Abuse and</p> <p>4 Mental Health Services Administration. That's a</p> <p>5 federal entity that pretty much tracks what its</p> <p>6 name says, substance abuse and mental health</p> <p>7 services.</p> <p>8 Q. Does the county have access to that</p> <p>9 data?</p> <p>10 MR. BADALA: Objection to form.</p> <p>11 A. Through their publications. I don't</p> <p>12 know -- again, I don't know if we have direct</p> <p>13 access to their data or if we rely on their</p> <p>14 publications and data that they might push down</p> <p>15 toward the Department of Health. A lot of times</p> <p>16 the federal data comes down to the Department of</p> <p>17 Health, not down to our county level.</p> <p>18 Q. Does the county have access to the</p> <p>19 child and protective service database that the</p> <p>20 state runs known as SACWIS, S-A-C-W-I-S?</p> <p>21 A. Which page are we on?</p> <p>22 Q. We're on data.</p> <p>23 A. Which topic?</p> <p>24 Q. Let me read it to you. "Plaintiff's</p> <p>25 knowledge of and access to data concerning</p>	<p style="text-align: right;">Page 268</p> <p>1 in national efforts. Informally I've certainly</p> <p>2 reached out to colleagues in different areas,</p> <p>3 Summit County being one; the New England states,</p> <p>4 where I spent a decent part of my career; New</p> <p>5 York City; participation in national</p> <p>6 organizations around prescription drug</p> <p>7 monitoring. I've presented at two of those</p> <p>8 meetings in 2017 and 2018 as they were trying to</p> <p>9 kind of formulate policies, best policies. I</p> <p>10 kind of left both meetings with Mr. Garner, the</p> <p>11 director of OARRS, thinking we had it probably</p> <p>12 better than a lot of other states.</p> <p>13 So I'm aware of efforts by other</p> <p>14 states, if that's answering your question.</p> <p>15 Q. Is the county aware of any data</p> <p>16 concerning the manufacturing, prescribing,</p> <p>17 distribution or dispensing of opioids other than</p> <p>18 what we've already discussed?</p> <p>19 A. To the best of my knowledge, I've</p> <p>20 covered everything I think I can.</p> <p>21 Q. Okay. Does the county have access</p> <p>22 to any additional data that we haven't already</p> <p>23 discussed?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 A. Let me just read the topic.</p>
<p style="text-align: right;">Page 267</p> <p>1 prescription opioid manufacturing, prescribing,</p> <p>2 distribution, or dispensing."</p> <p>3 A. And we're talking about child and</p> <p>4 family service data from the state?</p> <p>5 Q. Yes.</p> <p>6 A. I don't know if we have access to</p> <p>7 that data.</p> <p>8 Q. Do you have access to any law</p> <p>9 enforcement databases, such as the LERMs</p> <p>10 database for the City of Cleveland?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Outside the scope.</p> <p>13 A. As a county, the sheriff has access</p> <p>14 to law enforcement databases; as an entity, law</p> <p>15 enforcement within the county.</p> <p>16 Q. You have access to the medical</p> <p>17 examiner office's data, true?</p> <p>18 A. Yes, I would hope so.</p> <p>19 Q. Do you have access to data from</p> <p>20 other jurisdictions, such as the federal</p> <p>21 government, other than ARCOS, states, cities or</p> <p>22 counties?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 Outside the scope.</p> <p>25 A. Both informally and by participation</p>	<p style="text-align: right;">Page 269</p> <p>1 I mean, in participation in national</p> <p>2 meetings and other things like that, I would</p> <p>3 become aware of opioid prescribing and, you</p> <p>4 know, mortality as it impacted other areas in</p> <p>5 the country, and colleagues, as I said, from</p> <p>6 previous jurisdictions where I've worked or just</p> <p>7 know, and I've had discussions with them along</p> <p>8 those lines.</p> <p>9 Q. Do some of the Defendants in this</p> <p>10 lawsuit submit data to the ARCOS database?</p> <p>11 MR. BADALA: Objection to form.</p> <p>12 Outside the scope.</p> <p>13 A. I believe that the distributors are</p> <p>14 required to submit data to the ARCOS database</p> <p>15 and to monitor potentially suspicious activity</p> <p>16 with distribution. That's my very cursory</p> <p>17 knowledge of the ARCOS database.</p> <p>18 Q. Does any Defendant have access to</p> <p>19 data, to ARCOS data, other than what it itself</p> <p>20 submitted?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 Outside the scope.</p> <p>23 A. I honestly don't know.</p> <p>24 Q. Do some of the Defendants in this</p> <p>25 case submit data to ARCOS?</p>

<p style="text-align: right;">Page 270</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 Outside the scope.</p> <p>3 A. As I understand the ARCOS system,</p> <p>4 and again, I wouldn't say I or the county would</p> <p>5 be expert in that given that we have no access,</p> <p>6 my understanding of how that database works</p> <p>7 is --</p> <p>8 Q. I was asking about OARRS. Did I say</p> <p>9 ARCOS?</p> <p>10 A. You said ARCOS.</p> <p>11 Q. Strike that.</p> <p>12 MR. BADALA: I think you keep mixing</p> <p>13 them up.</p> <p>14 MR. BORANIAN: No. Just that one</p> <p>15 time.</p> <p>16 Q. Do some of the Defendants in this</p> <p>17 case submit data to OARRS?</p> <p>18 MR. BADALA: Same objection.</p> <p>19 A. I think the pharmacies that I see</p> <p>20 listed as Defendants would be submitting data to</p> <p>21 OARRS. We previously talked about the</p> <p>22 distributors, and I don't know to what extent</p> <p>23 they're required to submit information to OARRS.</p> <p>24 I just honestly don't know that. I'd have to</p> <p>25 check that. But the pharmacies are the source</p>	<p style="text-align: right;">Page 272</p> <p>1 examiner/coroner access, which no, you would not</p> <p>2 have. What we can pull out of OARRS with that</p> <p>3 access, I don't know how that would relate, just</p> <p>4 not knowing what sort of access the wholesalers</p> <p>5 or the distributors would have to OARRS.</p> <p>6 Q. Do any of the Defendants in this</p> <p>7 case have access to suspicious order reports</p> <p>8 submitted by other entities?</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 A. The suspicious order report, as I</p> <p>11 understand it, is a DEA reporting about quantity</p> <p>12 of drugs that were put into an area that seemed</p> <p>13 excessive. That's my understanding of it. And</p> <p>14 I don't know that any entity in the county has</p> <p>15 access to those.</p> <p>16 Q. Do Defendants have access to</p> <p>17 those --</p> <p>18 A. Oh, do the Defendants?</p> <p>19 Q. -- other than the ones that they</p> <p>20 themselves submitted?</p> <p>21 A. I don't know the workings of that</p> <p>22 system.</p> <p>23 Q. Do Defendants have access to any of</p> <p>24 the other databases we've reviewed today?</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">Page 271</p> <p>1 of the information for a lot of the OARRS</p> <p>2 database.</p> <p>3 Q. Does any Defendant in this case have</p> <p>4 access to data other than what it submitted to</p> <p>5 OARRS?</p> <p>6 MR. BADALA: Objection to form.</p> <p>7 Outside the scope.</p> <p>8 A. I'm sorry. That's a question that's</p> <p>9 just broad. Do they have access to what kind of</p> <p>10 data.</p> <p>11 Q. So, for example, if my client is a</p> <p>12 distributor. It submits wholesale data to</p> <p>13 OARRS. Does my client have access to any data</p> <p>14 in OARRS other than what itself submitted?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 A. I do not know what kind of access</p> <p>17 the distributors have if they submit data to</p> <p>18 OARRS. I'd have to say that's something the</p> <p>19 state would be better to answer than I.</p> <p>20 Q. Okay. Fair enough.</p> <p>21 To your knowledge, distributors like</p> <p>22 my client don't have access to OARRS like you</p> <p>23 do, true?</p> <p>24 MR. BADALA: Objection to form.</p> <p>25 A. We have a specialized medical</p>	<p style="text-align: right;">Page 273</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 A. I honestly just don't know.</p> <p>3 Q. Doctor, topic 28 is "The policies</p> <p>4 regarding the Ohio Board of Pharmacy's OARRS</p> <p>5 database."</p> <p>6 Doctor, what policies -- let's start</p> <p>7 with written policies. What written policies</p> <p>8 does the county have relating to the OARRS</p> <p>9 database?</p> <p>10 A. The OARRS is a state database. I</p> <p>11 don't know that we have any specific county</p> <p>12 policies regarding it. The county hospital, as</p> <p>13 I mentioned, would have to have its</p> <p>14 practitioners registered with OARRS, and to</p> <p>15 check under specific circumstances for</p> <p>16 prescribing pain medication, so any prescription</p> <p>17 lasting over seven days, any continued pain</p> <p>18 medication therapy that would extend beyond 90</p> <p>19 days has to be revisited every 90 days. And</p> <p>20 that would apply, again, to the medical services</p> <p>21 provided in the jail.</p> <p>22 Q. Those are state regulations, right?</p> <p>23 A. Right. I mean, we have to comply at</p> <p>24 the county level with the state legislations.</p> <p>25 Q. And OARRS is now mandatory, right?</p>

<p style="text-align: right;">Page 274</p> <p>1 A. OARRS checks, except in that setting 2 of like immediate post-therapy, the seven-day 3 window, is mandatory to be checked. And 4 dentists do not get an exception for that. 5 That's only physicians. 6 Q. And that became mandatory for 7 physicians in 2015? 8 A. April 2015. 9 Q. And for pharmacies in 2016, right? 10 A. That's my best understanding of it. 11 I talked with the head of OARRS and he said some 12 of those things are vague, but that's a fair 13 estimate. 14 Q. So it was nine to ten years before 15 it became mandatory? 16 A. OARRS was started in 2006. The 17 reporting by the pharmacies about the controlled 18 substances was mandatory. The checks on it did 19 not go into place until 2015, I think we just 20 said, so about nine years. 21 Q. And for pharmacies in 2016, right? 22 A. Or the pharmacies. 23 Q. Okay. Could that have been done 24 sooner? 25 A. I think that, you know, the</p>	<p style="text-align: right;">Page 276</p> <p>1 that -- I believe in the emergency department at 2 the MetroHealth Medical Center they did 3 implement the check on OARRS for any narcotic 4 prescription earlier than 2015. 5 Q. How about in law enforcement? Were 6 there any policies -- are there any policies or 7 procedures in the county law enforcement 8 agencies that address when those employees can 9 or should access data through OARRS? 10 A. Again, most of our law enforcement 11 investigation of diversion, which OARRS would be 12 beneficial for, would be done at a local level. 13 So I don't know to what extent the sheriff has 14 done that or has access to it. 15 Q. How about any other agency, whether 16 it's protective services or the county 17 department of health; do they have written 18 policies or procedures which specify when an 19 employee can or should access data through 20 OARRS? 21 A. They wouldn't have access to OARRS 22 because they're not prescribers, law 23 enforcement, or, obviously, pharmacies. So no, 24 I -- I would expect they do not because they 25 don't have access to it.</p>
<p style="text-align: right;">Page 275</p> <p>1 legislation regarding the practice of medicine 2 is always a touchy topic. And could it have 3 been done sooner? I guess it could have. I 4 wouldn't really know, you know, enough to say 5 how that could have been enacted. 6 Q. Did the county do anything in those 7 intervening nine or ten years to make it 8 mandatory for physicians and pharmacies in the 9 county to report to OARRS -- 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 Q. -- or to check OARRS? 13 A. The county did not. Again, the 14 oversight of prescribing is a state function, so 15 it would not have really been something the 16 county I think would have addressed. 17 Q. Are you aware of any policies or 18 practices that specifically address when a 19 county agency or employee can or should access 20 data through OARRS? 21 A. I don't know the specifics regarding 22 the county hospital and their prescribers. I 23 know they have to adhere to the state 24 guidelines, as we mentioned, and whether they 25 implemented any of those guidelines earlier than</p>	<p style="text-align: right;">Page 277</p> <p>1 Q. And how about the medical examiner's 2 office; do you have policies, written policies 3 which address when your employees can or should 4 access data through OARRS? 5 A. I don't know if we have them in 6 writing, to be honest with you, but we have used 7 the OARRS database for different data mining in 8 regard to especially our linkage of the 9 heroin-addicted population back to the opioid 10 pain relievers, and the fentanyl-addicted 11 population back to the opioid pain relievers as 12 well. But written policies, I would think that 13 if we had them, they should have been shared by 14 counsel, but I don't know that I can tell you 15 that for certain. 16 Q. And we have already covered, haven't 17 we, the data mining that you've done with the 18 OARRS database? 19 A. I feel like we have, but I'd 20 certainly be willing to help you answer any 21 questions you might want to ask. 22 Q. Now, you first requested OARRS data 23 in 2013. Are you aware of any effort to -- by 24 anyone in the county to use the OARRS database 25 for the purpose of detecting and stopping drug</p>

<p style="text-align: right;">Page 278</p> <p>1 diversion before 2013?</p> <p>2 A. Using the OARRS database?</p> <p>3 Q. Yes.</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 A. In the course of investigations that</p> <p>6 the prosecutor would address, I would expect --</p> <p>7 again, this is local law enforcement, but our</p> <p>8 prosecutor will be ultimately prosecuting those</p> <p>9 cases. They would have accessed OARRS for that</p> <p>10 purpose.</p> <p>11 And when I spoke with James</p> <p>12 Gutierrez, he was also, like me, saying that</p> <p>13 OARRS was a great tool for them in prosecutions.</p> <p>14 Q. Did the county use OARRS for</p> <p>15 prosecutions prior to 2013?</p> <p>16 A. Yes.</p> <p>17 Q. And when was the first time the</p> <p>18 county used OARRS for prosecution?</p> <p>19 A. I'd have to defer to the</p> <p>20 prosecutor's office on that. I do not know the</p> <p>21 date.</p> <p>22 Q. In the end, OARRS is a very useful</p> <p>23 tool for both law enforcement and public health,</p> <p>24 right?</p> <p>25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 280</p> <p>1 Q. We're talking about policies and</p> <p>2 procedures that relate to the OARRS database,</p> <p>3 but I'm following up on OARRS generally. The</p> <p>4 question is, would the investigation of drug</p> <p>5 diversion be more difficult without the OARRS</p> <p>6 database?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 Q. Without access to the OARRS</p> <p>9 database?</p> <p>10 MR. BADALA: Outside the scope.</p> <p>11 A. I would say, you know, again, the</p> <p>12 investigation of drug diversion is primarily</p> <p>13 much more of a local law enforcement function.</p> <p>14 Again, our sheriff could be participating in,</p> <p>15 and certainly, as I said, our prosecutor was</p> <p>16 able to say that the OARRS database was very</p> <p>17 helpful in the prosecution of diversions, but</p> <p>18 the identification of diversion, I would have to</p> <p>19 say from a county standpoint that's probably</p> <p>20 more something that local law enforcement is</p> <p>21 doing.</p> <p>22 Q. Would the investigation of drug</p> <p>23 diversion be more difficult without access to</p> <p>24 the OARRS database?</p> <p>25 MR. BADALA: Objection to form.</p>
<p style="text-align: right;">Page 279</p> <p>1 Outside the scope.</p> <p>2 A. I find it very useful in my capacity</p> <p>3 as a public health officer.</p> <p>4 Q. And it would be more difficult to</p> <p>5 detect and address diversion, drug diversion, if</p> <p>6 that didn't exist, right?</p> <p>7 MR. BADALA: Objection to form.</p> <p>8 Outside the scope.</p> <p>9 Q. Strike that.</p> <p>10 It would be more difficult to detect</p> <p>11 and address drug diversion if you didn't have</p> <p>12 access to those data, right?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 Outside the scope.</p> <p>15 A. Detect or investigate, I don't -- I</p> <p>16 certainly would say it might be -- it's a great</p> <p>17 tool to facilitate investigation. The detection</p> <p>18 of it and getting started with it might be</p> <p>19 painfully obvious in some situations.</p> <p>20 Q. And the investigation would be more</p> <p>21 difficult without access to those data, right?</p> <p>22 MR. BADALA: Objection to form.</p> <p>23 Outside the scope.</p> <p>24 A. Which topic -- are we still on</p> <p>25 data -- I'm sorry -- or are we back to OARRS?</p>	<p style="text-align: right;">Page 281</p> <p>1 Asked and answered. Outside the scope.</p> <p>2 A. I'd have to say it's a great tool to</p> <p>3 do investigations on prescribing, and if we've</p> <p>4 already mentioned those prescribing practices</p> <p>5 that result in diversion, yes, the OARRS</p> <p>6 database certainly would be helpful to identify</p> <p>7 them.</p> <p>8 Q. You're not going to answer, are you,</p> <p>9 Doctor?</p> <p>10 MR. BADALA: Objection.</p> <p>11 Q. Could I ask you again?</p> <p>12 A. I didn't hear what you said, sir.</p> <p>13 Q. Forget it.</p> <p>14 Okay, topic 30, "What efforts, if</p> <p>15 any, Plaintiffs made to influence the DEA's</p> <p>16 quota-setting process; and what actions, if any,</p> <p>17 Plaintiffs took in response to the DEA setting</p> <p>18 of quotas."</p> <p>19 Doctor, is the county aware that the</p> <p>20 DEA sets quotas with respect to Schedule 1 and 2</p> <p>21 controlled substances?</p> <p>22 A. I wasn't aware Schedule 1 they set</p> <p>23 quotas on. Those are illegal drugs.</p> <p>24 Q. Is the county aware -- fine. Is the</p> <p>25 county aware that the DEA sets quotas with</p>



<p style="text-align: right;">Page 282</p> <p>1 respect to any controlled substances?</p> <p>2 A. The Schedule 2 drugs are the ones</p> <p>3 that are potentially addictive. Heroin is a</p> <p>4 Schedule 1, as I understand, so there better not</p> <p>5 be any quota setting by the DEA on that.</p> <p>6 Q. Is the county aware that the DEA</p> <p>7 sets quotas with respect to controlled</p> <p>8 substances?</p> <p>9 A. I think in a general way they are,</p> <p>10 yes.</p> <p>11 Q. And when did it become aware of</p> <p>12 that?</p> <p>13 A. I honestly don't know.</p> <p>14 Q. What is -- well, strike that.</p> <p>15 Do you know what the aggregate</p> <p>16 production quota is?</p> <p>17 A. No, I do not.</p> <p>18 MR. BADALA: Objection to form.</p> <p>19 Q. Does the county know how the</p> <p>20 aggregate production quota is calculated?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 Outside the scope.</p> <p>23 A. I don't know the answer to that.</p> <p>24 Q. Has the county ever made any</p> <p>25 comments or objections to the aggregate</p>	<p style="text-align: right;">Page 284</p> <p>1 federal partners. To what extent that has any</p> <p>2 influence, I have no idea, if it has any at all.</p> <p>3 Q. Has the county ever become aware of</p> <p>4 any of the quotas in any year?</p> <p>5 A. No.</p> <p>6 Q. And the county has not reacted to</p> <p>7 any of those quotas in any year?</p> <p>8 MR. BADALA: Objection. Outside the</p> <p>9 scope.</p> <p>10 A. Not knowing them, we could not react</p> <p>11 to them.</p> <p>12 MR. BORANIAN: Let's take a break.</p> <p>13 THE VIDEOGRAPHER: Off the record at</p> <p>14 3:59 p.m.</p> <p>15 (Recess had.)</p> <p>16 THE VIDEOGRAPHER: Back on the</p> <p>17 record at 4:13 p.m.</p> <p>18 EXAMINATION OF THOMAS GILSON, M.D.</p> <p>19 BY MR. CARTER:</p> <p>20 Q. Good afternoon, Doctor.</p> <p>21 A. Hi, Mr. Carter.</p> <p>22 Q. Yes. You just got my name. I'm Ed</p> <p>23 Carter. I've got some questions for you this</p> <p>24 afternoon, okay?</p> <p>25 A. Yeah. Sure.</p>
<p style="text-align: right;">Page 283</p> <p>1 production quota?</p> <p>2 A. None that I'm aware of.</p> <p>3 Q. Has the county ever provided any</p> <p>4 input into that quota?</p> <p>5 A. Again, in my discussions with our</p> <p>6 DEA liaison to the opiate task force, the</p> <p>7 Attorney General's task force especially, that</p> <p>8 input isn't sought from DEA and we don't</p> <p>9 influence their quota-setting process.</p> <p>10 Q. And that same goes for the</p> <p>11 manufacturing quota?</p> <p>12 A. If that's part of the DEA's</p> <p>13 quota-setting process, we don't influence that.</p> <p>14 Q. And how about the procurement quota?</p> <p>15 A. I'm assuming you're telling me</p> <p>16 genuine parts of that process, but we have no</p> <p>17 influence on them.</p> <p>18 Q. No input at all, right?</p> <p>19 A. Pardon me?</p> <p>20 Q. No input into that at all, right?</p> <p>21 A. I would only say, you know, as we</p> <p>22 share this data, that our office, as the medical</p> <p>23 examiner's office, and then these other task</p> <p>24 force pieces of data, are being shared, that's</p> <p>25 obviously something that we're sharing with</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. With respect to the SAMHSA bulletin</p> <p>2 that you mentioned, what was the date of that?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 A. It was, I believe, August 2013.</p> <p>5 Q. And SAMHSA, by its nature, was not</p> <p>6 compiling Cuyahoga County-specific data, was it?</p> <p>7 It was national data, right?</p> <p>8 A. Yes, that's correct.</p> <p>9 Q. You were also asked a question</p> <p>10 earlier whether the county ever reported</p> <p>11 diversion to the Defendants, and you mentioned a</p> <p>12 request to CVS and pharmacies to provide</p> <p>13 naloxone without a prescription. Do you recall</p> <p>14 that testimony?</p> <p>15 A. It came through a task force. I</p> <p>16 don't remember the exact wording I said, but as</p> <p>17 we were trying to blanket the community with</p> <p>18 naloxone, that was one of the interventions that</p> <p>19 was recommended, yes.</p> <p>20 Q. And that's one of the interventions</p> <p>21 that was requested from the task force to the</p> <p>22 pharmacies, correct?</p> <p>23 A. That's my understanding of that,</p> <p>24 yes.</p> <p>25 Q. And in response to that, the</p>

<p style="text-align: right;">Page 286</p> <p>1 pharmacies did make naloxone available without 2 prescription, correct? 3 A. Yes, they did. Or at least I know 4 that certain ones did, but I know that in 5 general that was a very positive response. 6 Q. Are you aware of any that refused 7 that request? 8 A. I don't know that I know if anybody 9 did refuse or not. 10 Q. I want to ask you about topic 18. 11 You were designated as a witness for 12 the county to testify on topic 18, correct? 13 A. Yes, I am. 14 Q. What did you do to prepare to 15 respond to questions about topic 18? 16 A. I reviewed medical examiner data 17 with regard to overdose deaths as they related 18 to these medications and drugs listed here. I 19 also reviewed the drug chemistry data, the 20 seized drug data in the forensic crime 21 laboratory. And I think that's -- those are my 22 biggest pieces of that. 23 Q. How far back did you review the ME 24 data? 25 A. 2006.</p>	<p style="text-align: right;">Page 288</p> <p>1 MR. BADALA: Objection to form. 2 THE COURT REPORTER: I'm sorry? Did 3 you say -- 4 THE WITNESS: Sure. I said yes. 5 Q. Cocaine is one of those drugs that's 6 been abused in the county, correct? 7 A. Yes. In fact, in 2006 that was 8 actually the highest cause of drug overdose 9 mortality. 10 Q. Methamphetamine has been abused in 11 the county? 12 A. We issued an alert actually earlier 13 in 2018, about almost a year ago, to notice that 14 there was an upsurge in methamphetamine. It's 15 not a drug we see terribly frequently in our 16 county, but -- there were months in 2018 where 17 we did, but it's really not a major player in 18 what gets seized, and certainly not in our death 19 data. 20 Q. If it's not a major player, why did 21 the county release an alert? 22 A. Oh. Well, I think that was the 23 responsible thing to do when we saw a big uptick 24 in the number of seizures. Methamphetamine is 25 not a drug that is without its problems. It</p>
<p style="text-align: right;">Page 287</p> <p>1 Q. And how far back did you review the 2 seized drug data? 3 A. Through 2017. 4 Q. So 2017 was as far back as you went? 5 A. Yes. 6 Q. Okay. Anything else to prepare on 7 topic 18? Did you talk to anyone specifically 8 about topic 18? 9 A. I discussed things with Mr. Shannon 10 in my office, about trends and things, as we 11 recalled them, and our memories were pretty 12 similar on those things. 13 Q. Anyone else? 14 A. Specifically on these topics, I 15 don't remember, but I think that's everybody. 16 Q. You agree -- 17 A. That's my preparation. I should say 18 there's one person. That's everybody. 19 Q. Sure. 20 You agree many illegal drugs have 21 been abused in Cuyahoga County? 22 MR. BADALA: Objection to form. 23 A. Over the course of its history? 24 Q. Over the course of the time period 25 relevant to this lawsuit.</p>	<p style="text-align: right;">Page 289</p> <p>1 certainly has issues in the southern part of 2 Ohio. It's not just been a big factor in the 3 Cuyahoga County experience. 4 Q. In the alert did it say anything 5 describing the extent to which meth was a 6 problem in the county? Did it say 7 methamphetamine is not a real problem here but 8 we're issuing an alert? 9 A. I don't remember the exact wording 10 of the alert, but I would certainly say, 11 Mr. Carter, it did not say it wasn't a problem. 12 Any of these drugs are problems, and the fact 13 that we were seeing more of it and issuing an 14 alert, it certainly wasn't the intention of the 15 medical examiner's officer or crime laboratory 16 to downplay that. We were issuing the alert 17 because we were concerned. 18 Q. Is marijuana an illegal drug that's 19 been abused in the county? 20 MR. BADALA: Objection to form. 21 A. Well, it's a legal substance now in 22 Ohio. I think the details are being worked out 23 now about distribution. But for the time frame 24 that we're talking about, most of that time it 25 was an illegal drug.</p>

<p style="text-align: right;">Page 290</p> <p>1 Q. And during that time period when it 2 was classified as an illegal drug was it abused 3 in the county?</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 A. Yes.</p> <p>6 Q. What about synthetic marijuana; was 7 that abused in the county?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 A. You know, I saw this question, and I 10 would define synthetic marijuana as having a lot 11 of overlap with spice and bath salts, and that's 12 how I would answer your question, which is that 13 we did have spice, bath salts, synthetic 14 marijuana. How you described them as a problem, 15 probably for about a year. And we were seizing 16 lots of them. They were scheduled in Ohio, and 17 I want to say this is about 2013, and largely 18 vanished after that scheduling. We saw very few 19 of them being submitted to the laboratory. 20 Those numbers dropped off dramatically.</p> <p>21 And in terms of mortality from the 22 synthetic cannabinoids, very, very rare. We did 23 research in the office and presented that on 24 MDPV, which I would have to look up what those 25 letters stand for. I think it's methyl -- I'd</p>	<p style="text-align: right;">Page 292</p> <p>1 out what is just amphetamine versus 2 methamphetamine because of the relationship they 3 have in the breakdown in the body.</p> <p>4 Q. As a result of that chemical 5 relationship, is it possible that the 6 methamphetamine overdose deaths are 7 underreported?</p> <p>8 A. Meaning, I guess, if I understand 9 you correctly, could we have something reported 10 as an amphetamine death and that actually being 11 methamphetamine --</p> <p>12 Q. Correct.</p> <p>13 A. -- and it would have been 14 misidentified? I suppose that's certainly a 15 possibility. I would add, too, parenthetically, 16 in 2017 most of our methamphetamine deaths were 17 in association with fentanyl and it was about 24 18 deaths, so the numbers aren't large, and it's 19 sort of one of those things I think that 20 fentanyl has a general trend in our county of 21 pulling up a lot of other drugs. So 22 methamphetamine, cocaine, heroin all got pulled 23 up in 2016 when fentanyl really took off. And 24 in analyzing that data, especially with cocaine 25 and heroin, the change wasn't due to increases</p>
<p style="text-align: right;">Page 291</p> <p>1 have to look them up, but we didn't see a lot of 2 mortality associated with them. And in my 3 discussions with Dr. Papp, who's an emergency 4 room physician, they weren't also something that 5 was really dominating the picture in the 6 emergency rooms either. Opioids are, far and 7 away, dominating this picture in terms of what's 8 being seized and certainly what's being, you 9 know, a source of mortality.</p> <p>10 Q. So lumping those together, synthetic 11 marijuana, spice, bath salts, those substances 12 were abused in the county with a focus around 13 2013, correct?</p> <p>14 A. That's my best recollection.</p> <p>15 Q. What about amphetamines; have 16 amphetamines been abused in Cuyahoga County?</p> <p>17 A. I think, you know, most of that is 18 referable back to methamphetamine, and when 19 methamphetamine is broken down in the body, it 20 goes to amphetamine. So a lot of our toxicology 21 positive testing on that -- for example, in 22 2016, we had 15 overdose deaths with 23 methamphetamine -- 16 overdoses with 24 methamphetamine detected, 15 with amphetamine 25 detected, so it's a little bit harder to tease</p>	<p style="text-align: right;">Page 293</p> <p>1 in isolated cocaine and heroin mortality. It 2 was due to mixtures. Methamphetamine, being as 3 small as it is, we didn't do that analysis.</p> <p>4 Q. And the fentanyl that you referenced 5 pulling things up, that's illicit manufactured 6 fentanyl that you described earlier, correct?</p> <p>7 A. That's -- that's our best 8 understanding of that, yes.</p> <p>9 Q. What about benzodiazepines; have 10 they been abused in Cuyahoga County?</p> <p>11 A. Yes, they have.</p> <p>12 Q. K2, has that been abused in the 13 county?</p> <p>14 A. K2 is another one of the synthetic 15 cannabinoids, so I would sort of lump it under 16 the answer that I gave there.</p> <p>17 Q. You would answer it the same way 18 that you did with respect to spice, bath salts?</p> <p>19 A. Right, and the synthetic 20 cannabinoids, that sort of cluster, the 21 cathinones and other things. That was a trend 22 that we saw for a period of time, and mostly it 23 came under that heading of bath salts, but these 24 were other names for that.</p> <p>25 Q. What about hallucinogens? Has</p>

<p style="text-align: right;">Page 294</p> <p>1 ecstasy and has LSD -- have those been abused in 2 the county?</p> <p>3 A. We don't see a lot of LSD in the 4 county, at least in the mortality data or 5 particularly in the seizure data. I would 6 hesitate to say, especially over this time 7 frame, that that number is zero, but again I 8 would emphasize it's a very small participant. 9 And in and of itself, LSD is not a fatal 10 substance in overdose. It probably would prompt 11 more visits to the emergency department, and, 12 again, based on my discussions with an emergency 13 room physician at one of our three healthcare 14 systems, it's not the player that the opioids 15 are.</p> <p>16 Q. And with respect to drug abuse, the 17 county recognizes drug abuse that does not 18 result in an overdose death, correct?</p> <p>19 MR. BADALA: Objection to form.</p> <p>20 Q. So, for example, with LSD, you can 21 have people abusing the drug whether or not they 22 overdose and die on it, correct?</p> <p>23 A. Right. We don't have, for example, 24 a lot of deaths from marijuana. In fact, we 25 don't have any deaths from marijuana by itself.</p>	<p style="text-align: right;">Page 296</p> <p>1 MR. BADALA: Objection to form. 2 Outside the scope.</p> <p>3 A. You know, I don't want to voice an 4 opinion as to what constitutes addiction for 5 some of these substances because I don't know 6 and I don't think it's very clearly defined. 7 There are addictions to cocaine and 8 methamphetamine. Are there addictions to the 9 synthetic cannabinoids? I don't know how 10 clearly defined that is. Are there addictions 11 to LSD versus abuse of it? That, I don't know. 12 I don't think it's clear and I don't think the 13 county would say all of these can be potentially 14 addictive substances.</p> <p>15 Q. So to put a fine point on it, 16 sitting here today, does the county consider 17 each of those substances to be an addictive 18 substance?</p> <p>19 MR. BADALA: Objection to form. 20 Outside the scope.</p> <p>21 A. The --</p> <p>22 Q. Hold on one second so I can cure the 23 objection if it's valid.</p> <p>24 MR. CARTER: How is that outside the 25 scope of the use and abuse of controlled or</p>
<p style="text-align: right;">Page 295</p> <p>1 The benzodiazepines by themselves very 2 infrequently to vanishingly rare cause death by 3 themselves. Alcohol. Opioids, yes, they're 4 very much present there, but by themselves, not 5 a particularly toxic compound.</p> <p>6 Q. What about PCP? Has that been 7 abused in the county?</p> <p>8 A. We have a certain number of seizures 9 with PCP every month. It's probably similar to 10 oxycodone seizures, maybe about 10 to 25 a 11 month.</p> <p>12 Q. Is PCP a major player?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 A. I wouldn't consider it anywhere near 15 the scope of fentanyl and heroin, and I would 16 not, if I was handicapping the race, say in any 17 way that it's a major player. I wouldn't list 18 any of these except for the cocaine as a major 19 player.</p> <p>20 Q. And every one of these drugs that we 21 just went through that are listed here in topic 22 18, cocaine, methamphetamine, marijuana, the 23 synthetics, amphetamines, benzodiazepine, 24 ecstasy, LSD and PCP, every one of those has 25 caused addictions in the county, correct?</p>	<p style="text-align: right;">Page 297</p> <p>1 regulated substances?</p> <p>2 MR. BADALA: It just asked about 3 Plaintiff's knowledge and the actions taken. 4 You're taking it much further than that. You're 5 asking if it constitutes addiction. I don't see 6 the word "addiction."</p> <p>7 MR. CARTER: So are you stipulating 8 for this case that abuse is not related to 9 addiction?</p> <p>10 MR. BADALA: I'm reading the topics 11 that you wrote clearly, but you're reading 12 something completely different it seems like.</p> <p>13 MR. CARTER: If the position is 14 abuse does not equal addiction, then that will 15 streamline my questions. Are you saying abuse 16 is not addiction?</p> <p>17 MR. BADALA: You wrote the topics. 18 I'm reading exactly how you wrote it.</p> <p>19 MR. CARTER: So I'll reask my 20 question the same way then because I'm not 21 worried about the objection.</p> <p>22 Q. Does the county consider each of 23 those drugs on the list to be an addictive drug?</p> <p>24 MR. BADALA: Same objections. 25 Outside the scope.</p>

<p style="text-align: right;">Page 298</p> <p>1 A. No, because abuse does not equal 2 addiction. 3 Q. Has the county seen reports of 4 minors using and abusing every one of these 5 substances on the list? 6 A. I don't know that I could drill that 7 specifically into the data; that I know a lot of 8 the charges around these would, again, be things 9 that would be investigated by local law 10 enforcement, and that data wouldn't be furnished 11 necessarily to the county. 12 Q. From the county's perspective, is 13 drug abuse by minors a significant issue that 14 they're concerned in addressing and preventing? 15 MR. BADALA: Objection to form. 16 A. Of course. I mean, nobody wants to 17 see kids suffer. They don't like to see anybody 18 suffer from drug use and abuse, but if you were 19 asking me, you know, are there specific 20 initiatives, I believe there are. We certainly 21 have tried with the opioid crisis to establish a 22 presence in our school systems to do education 23 on that. I know we're not talking about the 24 opioids here, but -- no. I'd have to say it's 25 such an obvious question. Any abuse by a child</p>	<p style="text-align: right;">Page 300</p> <p>1 would be incurring costs. We have an alcohol, 2 drug addiction and mental health services agency 3 in the county. It's separate from -- it's 4 legally separate from county government, but 5 they certainly are a group we collaborate with 6 on the task force and are incurring costs around 7 this. 8 The other thing I would say is, you 9 know, to the extent that these are people who 10 wind up in our county hospital, they would also 11 be incurring costs. Maybe they're reimbursed, 12 maybe they're not, but I would say they 13 certainly would probably cost the county money. 14 There hasn't been, I think, a dramatic 15 escalation in any of these that I am aware of 16 over the time frame, but at a baseline they 17 certainly cost the county money. 18 Q. When you say there hasn't been a 19 dramatic escalation, what was the baseline cost 20 that the county incurred related to the use and 21 abuse of the substances in topic 18 in 2015? 22 MR. BADALA: Objection to form. 23 Outside the scope. 24 A. I don't have an answer to that 25 question. I did not come across that number in</p>
<p style="text-align: right;">Page 299</p> <p>1 would be a source of concern to the county. 2 Q. And given the county's concern about 3 children abusing drugs, do you understand the 4 rates or prevalence of children abusing the 5 drugs in this list? 6 A. There's data that's collected from 7 federal groups, like the behavioral risk factor 8 surveys, that our County Board of Health would 9 be more familiar with than I. To the extent 10 that goes down to the county level, I would have 11 to defer to them on that. That's a somewhat 12 separate entity from us as the county. 13 Q. Of the drugs on this list, which one 14 of them is most frequently abused by minors 15 under 18? 16 A. I don't think the county could give 17 you an answer on that. 18 Q. Has the use and abuse of the 19 substances identified in topic 18 -- has every 20 one of those caused the county to incur costs? 21 MR. BADALA: Objection to form. 22 Outside the scope. 23 A. To the extent, obviously, that we 24 have, you know, treatment programs for 25 individuals abusing drugs, the county certainly</p>	<p style="text-align: right;">Page 301</p> <p>1 my research on cost to the county on that. As I 2 said, some of the costs that I mentioned are 3 outside of the county, and that the ADAMHS -- 4 that's our alcohol, drug addiction and mental 5 health services -- is a separate entity and 6 their budget is separate from the county. 7 Q. Is there any year from 1995 through 8 to 2018 for which you could quantify the costs 9 related to the use and abuse of the topic 18 10 substances? 11 MR. BADALA: Objection to form. 12 Outside the scope. 13 A. No. 14 Q. Given that inability, do you stand 15 by your testimony that those costs have not 16 escalated over time? 17 A. No. I didn't say the costs didn't 18 escalate. I'm sorry if I wasn't clear. The 19 mortality that we see with these drugs 20 especially, and the emergency room visits that 21 we see with these drugs, are not significantly 22 changed over time. I will make an exception 23 about cocaine and heroin, but in general, those 24 numbers haven't changed. So the treatments that 25 are in place for them were not, to the best of</p>



<p style="text-align: right;">Page 302</p> <p>1 my knowledge, changing, because there wasn't an 2 increase in the problems these were causing with 3 the opioid epidemic. Some of these things 4 certainly would have the effect of the opioids 5 pushing a lot of things that were less prevalent 6 out. 7       So, for example, in our drug court, 8 which was started in 2007, at the time it 9 started, per the presiding judge there, most of 10 the cases they were hearing at that time were 11 cocaine related, and over time they've evolved 12 to almost exclusively opioids, to the point that 13 the county had to incur the cost of setting up a 14 separate docket for drug court. 15       We had cases in place where there 16 was a START program, which is a program that 17 brings children and parents of addicted children 18 in contact with people in recovery, and that 19 was, again, primarily driven by cocaine, but as 20 the opioid crisis has worsened, the focus has 21 come again towards opioids. We don't ignore the 22 cocaine population, but there's only so much the 23 county has money to do and we have to treat as 24 many of these folks as we can. 25       MR. CARTER: I'll move to strike</p>	<p style="text-align: right;">Page 304</p> <p>1 Outside the scope. 2       A. I don't think so. 3       Q. Does Cuyahoga County have a cocaine 4 epidemic? 5       A. No. I mean, if I can qualify that 6 and explain. If you look at our mortality data, 7 which somebody was kind enough to give me -- on 8 the chart this would be Exhibit 11. Cocaine is 9 shown here from 2006 to 2014, and the mortality 10 hasn't changed dramatically over that period of 11 time. I can tell you that in 2015 that was also 12 true, and in 2016, when we looked at that data, 13 cocaine deaths nearly doubled in the county, 14 from about 100 to over 200. But when we 15 filtered out the impact of mixtures on the 16 cocaine data, what we saw was that, in fact, 17 cocaine had actually remained flat in isolation; 18 in other words, cocaine without fentanyl hadn't 19 really changed, but the fentanyl had pulled that 20 curve up. That was also similar for heroin. 21       Q. Is it possible that Cuyahoga County 22 residents intended to abuse cocaine and, 23 instead, ended up getting a mixture of cocaine 24 laced with illicit fentanyl? 25       A. I think that's a true statement.</p>
<p style="text-align: right;">Page 303</p> <p>1 everything after the portion of the response 2 where it said, "in general those numbers haven't 3 changed"? 4       MR. BADALA: Just note my objection. 5       MR. CARTER: You object to my motion 6 to strike; is that what you're saying? 7       MR. BADALA: Yes. 8       MR. CARTER: Okay. 9       Q. Do any of the Defendants in this 10 case -- have they ever made, sold, marketed or 11 distributed any of the drugs identified in topic 12 18? 13       MR. BADALA: Objection to form. 14 Outside the scope. 15       A. Many of these drugs are illegal, so 16 I wouldn't consider them controlled substances. 17 Cocaine and amphetamine and benzodiazepines are 18 legal Schedule 2 -- I think cocaine -- 19 medications. I do not know whether these are 20 manufactured or distributed by the Defendants. 21       Q. Does the cocaine -- excuse me. 22 Strike that. Does the county link the use and 23 abuse of the drugs in topic 18 to any specific 24 Defendant? 25       MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 305</p> <p>1       Q. The same with respect to meth; are 2 there examples where people may have intended to 3 use meth but instead got meth that was laced 4 with other substances, such as illicit fentanyl? 5       A. I can only say these are 6 possibilities. I can't get inside the mind of 7 what people were intending to abuse with regard 8 to your question about cocaine. Traditionally, 9 that was a drug that we saw much more prevalent 10 in the African-American community and did not 11 see a lot of fentanyl or heroin or opioid pain 12 overdoses in the community. With that rise that 13 I described, though, in 2016, we started to see 14 a rise -- actually, it went back to 2015 -- in 15 African-American fentanyl mortality, and it was 16 our concern at that time that the mixture was 17 pulling up that group. 18       On the other hand, the percentage of 19 African-American cocaine deaths relative to 20 other races declined because the mixture of 21 cocaine in the fentanyl distribution was also 22 showing up in the people intending to purchase 23 fentanyl. 24       So I can't be specific, especially 25 with a small subset like methamphetamine, what</p>

<p style="text-align: right;">Page 306</p> <p>1 they were intending to purchase and what they 2 got. 3 Q. How does the county define an 4 epidemic? 5 MR. BADALA: Objection to form. 6 Outside the scope. 7 A. With the standard definition, which 8 is an elevated prevalence of a disease beyond 9 its baseline in a community. 10 Q. So when you were talking about 11 cocaine and the doubling of deaths between, I 12 think it was -- you said it was 2015 and 2016? 13 A. Right. Yes. 14 Q. So do you consider that doubling a 15 cocaine epidemic? 16 MR. BADALA: Objection to form. 17 Outside the scope. 18 A. No, for the reason that I am -- that 19 I mentioned, which is that when you factor out 20 the opioid contribution to that elevation, it's 21 not at an increased incidence over baseline. 22 Q. Would you consider the number of 23 deaths in 2016 where cocaine was adjudicated and 24 certified as the cause of death, is that a 25 crisis for Cuyahoga County?</p>	<p style="text-align: right;">Page 308</p> <p>1 fentanyl. 2 Q. So before the cocaine doubled 3 between '15 and '16, that previous baseline 4 level of cocaine abuse and death, do you 5 consider -- does the county consider the 2014 6 level of cocaine abuse and use to be a crisis in 7 and of itself? 8 MR. BADALA: Objection to form. 9 Outside the scope. 10 A. It's an area of concern. If you're 11 asking me is it a crisis because it's acutely 12 worsened, the answer to that is no. 13 Q. So my question is if -- well, how 14 many deaths were there in 2014 caused by 15 cocaine? 16 A. I can check. 124. 17 Q. Does Cuyahoga County consider 124 18 deaths to be a crisis? 19 MR. BADALA: Objection to form. 20 A. I'm sorry. You know, we're not 21 turning our back on these folks. All of these 22 things are sad, that these people are dying, and 23 I think, you know, the overshadowing of this 24 crisis by heroin, fentanyl is just more tragic, 25 but if you're asking me are these folks any less</p>
<p style="text-align: right;">Page 307</p> <p>1 MR. BADALA: Objection to form. 2 Outside the scope. 3 A. I mean, we were in the midst of an 4 opioid crisis before that. Certainly there was 5 an acute worsening in 2016 that was driven by -- 6 primarily by fentanyl. That's the position of 7 the county. The fact that cocaine was pulled 8 back up with that, heroin was pulled back up 9 with that doesn't negate the contribution of 10 fentanyl to that part of the crisis. 11 Q. So I'm trying to understand, with 12 respect to cocaine specifically, does the county 13 consider itself to be in the middle of a cocaine 14 crisis? 15 MR. BADALA: Objection to form. 16 Outside the scope. 17 A. We're in the middle of a drug 18 crisis. I mean, is cocaine up from where it 19 was, yes, and I think the strategy is all of the 20 above with the drugs. But if you're asking me 21 is the elevation in cocaine significant relative 22 to the elevation of the opioids, I would say 23 that it's less, because what our data shows in 24 the mortality data is that the elevation in the 25 cocaine is, unfortunately, being pulled up by</p>	<p style="text-align: right;">Page 309</p> <p>1 valuable or something, like no. That's not a 2 position. The county is concerned about all of 3 our citizens, and these 124 folks who died of a 4 cocaine overdose are just as much, you know, 5 missed by their people as the hundreds who died 6 of a fentanyl or heroin overdose. 7 Q. So from the county's perspective, 8 the 124 deaths in 2014, the county would 9 consider those to be a crisis for cocaine? 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. I mean, as you use the term 13 "crisis," I think of that in terms of the 14 epidemic, and that is not part of the epidemic, 15 but it's a source of great concern. We don't 16 like to see our citizens die of any drug 17 overdose, but -- maybe we're parsing over words, 18 but, you know, the crisis is really the opioids, 19 it's not the cocaine here, but that doesn't mean 20 that it's not a source of tremendous concern. 21 Q. What did Cuyahoga County do in 2014 22 or the years that followed to address the use 23 and abuse of cocaine that resulted in 124 deaths 24 in 2014? 25 A. The county would have continued its</p>

<p style="text-align: right;">Page 310</p> <p>1 drug treatment services. The county would have  2 made available things like the START program to  3 those parents. It wasn't like we exclusively,  4 you know, excluded them. So we would connect  5 those parents with cocaine issues, with, you  6 know, a mentor in recovery. The county would  7 have responded to separate families where there  8 potentially was an issue that wasn't resolvable  9 with cocaine. I think the county, you know,  10 continued its treatment efforts. Drug court  11 didn't shut cocaine people out. It's just that  12 the docket became much more tilted towards  13 opioids.</p> <p>14 Q. Is that everything you can identify  15 sitting here today the county did in response to  16 the cocaine use and abuse in 2014?</p> <p>17 A. If I can look at our organizational  18 chart again.</p> <p>19 During that time period, around  20 2013, 2014, the sheriff's office instituted  21 strike forces. They were supposed to supplement  22 local law enforcement so that they could address  23 any multitude of issues. So it could have been  24 in part, you know, drug trafficking. Re-entry  25 programs obviously were making efforts to</p>	<p style="text-align: right;">Page 312</p> <p>1 A. Again, you know, with what I've said  2 about crisis, I would say no, it hasn't really  3 escalated to the comparabilities of like being  4 similar to heroin or, especially now, fentanyl.</p> <p>5 Q. Has the county done everything in  6 its power to combat the abuse of the illegal  7 drugs identified in topic 18?</p> <p>8 A. I think the county has made  9 significant investments to do that. I think if  10 you ask me are there more things we wish we  11 could do, we do. But there's -- you know, as  12 much as we can do, I really feel, especially our  13 models of collaboration, cooperation -- they're  14 national models now, and I do feel that this has  15 really been a very exemplary response to this  16 crisis, both this one and the opioid crisis  17 especially.</p> <p>18 Q. You talked earlier in the day about  19 Mexican cartels and China with respect to  20 illicit fentanyl. Do you recall that topic  21 generally?</p> <p>22 A. I remember mentioning China, and I  23 think the person who was asking me at the time  24 mentioned Mexico, and that's part of the story I  25 think as well.</p>
<p style="text-align: right;">Page 311</p> <p>1 reintegrate cocaine addicts. Workforce  2 development. Prosecutions of drug dealers by  3 our county prosecutor. The creation of drug  4 court for the treatment of drug addicts in lieu  5 of incarceration, provision of mental and  6 medical health services in the county jail.</p> <p>7 Q. Does the county --</p> <p>8 A. There's a lot of things --</p> <p>9 Q. I'm sorry.</p> <p>10 A. I'm sorry. I just wanted to sort of  11 close it.</p> <p>12 This problem touches so many levels  13 of our community, and I think, you know,  14 interventions for some of these things are not  15 necessarily just we shut the door on everything  16 except the opioids. We're trying to deal with  17 all of them, and I don't want to say that I  18 could be exhaustive. I think as I run through  19 our org chart, there's a lot of things I can see  20 there.</p> <p>21 Q. From the county's perspective, is  22 the use and abuse of methamphetamine at crisis  23 level?</p> <p>24 MR. BADALA: Objection to form.  25 Outside the scope.</p>	<p style="text-align: right;">Page 313</p> <p>1 Q. Do you agree that the importation of  2 heroin and illicit fentanyl from other countries  3 into the county could be considered an act of  4 terrorism?</p> <p>5 MR. BADALA: Objection to form.  6 Outside the scope.</p> <p>7 Which topic are we on?</p> <p>8 MR. CARTER: We're on 34.</p> <p>9 MR. BADALA: If you could just  10 indicate that.</p> <p>11 A. I think I made that statement.</p> <p>12 Q. You've made that statement. I'm  13 asking does the county agree with it.</p> <p>14 A. I wouldn't want to necessarily put  15 that as the county's position. It's a personal  16 opinion. I don't know that I have independent  17 confirmation to say that.</p> <p>18 Q. Okay. In terms of the drivers of  19 the rapid increase in mortality in the county  20 from 2010 through to today, do you agree that  21 it's been heroin, illicit fentanyl, fentanyl  22 analogs and cocaine since 2010?</p> <p>23 MR. BADALA: Objection to form.</p> <p>24 A. Sure. I mean, I think that, you  25 know, you can look at this page from Exhibit 13,</p>

<p style="text-align: right;">Page 314</p> <p>1 which goes up to 2012. Here's our crack  2 cocaine. There's our prescription opioids.  3 Here's the heroin phase. And if you want to go  4 back to our own charts and graphs, the fentanyl  5 phase was even worse than the heroin escalation.  6 The analogs of fentanyl that we saw,  7 carfentanil, the elephant tranquilizer, those  8 other drugs, all caused significant rises in  9 mortality, and like the opioid pain relievers,  10 heroin, fentanyl, they are illicit opioids that  11 act on the same mechanism in the brain that the  12 opioid pain relievers do.  13 Q. So I think we're on the same page,  14 but just to be clear then, from 2010 through to  15 today the primary drivers of the increase in  16 mortality in the county have been heroin,  17 illicit fentanyl, fentanyl analogs and cocaine,  18 true?  19 A. Again, I'd have to put the caveat  20 with cocaine that, by itself, it hasn't  21 dramatically changed, and that the changes that  22 we see in cocaine can be reasonably attributed  23 to fentanyl, as can the changes after 2016 with  24 heroin, but heroin, in the time frame you  25 mentioned, is a significant game changer from</p>	<p style="text-align: right;">Page 316</p> <p>1 Q. Do you agree that a diagnosis of  2 addiction is a medical task?  3 MR. BADALA: Objection to form.  4 A. I mean, the addiction has a  5 definition in medicine.  6 Q. And there are physicians who provide  7 medical diagnoses of addiction, correct?  8 MR. BADALA: Objection to form.  9 Outside the scope.  10 A. I don't know if I would say  11 addiction versus substance use or abuse  12 disorder. It's an area of medicine, the  13 terminology of which I am not familiar and I  14 would not think the county would have an opinion  15 on.  16 Q. Do you know whether there are ICD-10  17 codes to define a substance use disorder?  18 MR. BADALA: Objection to form.  19 Outside the scope.  20 A. ICD-10?  21 Q. Yes.  22 A. I don't think the county knows that.  23 I don't know it myself.  24 Q. Do you know what ICD codes refer to  25 generally?</p>
<p style="text-align: right;">Page 315</p> <p>1 2012, 2011 onward.  2 Q. I want to follow up on some  3 questions on topic 19. You talked about the  4 criteria. I'm not going to go through all that  5 again, but I want to focus on the criteria, the  6 third one you identified, people that have been  7 diagnosed with an opioid use disorder, okay?  8 How does the county define an opioid  9 use disorder?  10 A. The county identified that in  11 consultation with experts beyond what I'm  12 prepared to talk about today.  13 Q. So sitting here today, can you give  14 me a scientific or a layperson definition that  15 the county used to define opioid use disorder or  16 did you defer to the experts on that?  17 A. I believe we deferred to the experts  18 on that.  19 Q. Related, does the county have an  20 official working definition of addiction that it  21 used to identify individuals in response to  22 Exhibit A and Exhibit B that are part of  23 Deposition Exhibit 2?  24 A. I'm not aware of a working  25 definition the county has for addiction.</p>	<p style="text-align: right;">Page 317</p> <p>1 A. Sure. Sure do. I do I should say.  2 The county may not, but the International  3 Classification of Diseases. As their agent, I  4 would be able to inform them of that.  5 Q. Do you agree that, from a medical  6 perspective, it's inappropriate to assume a use  7 disorder or an addiction, however you want to  8 use that term -- you would need to look at an  9 individual case, an individual resident story to  10 arrive at a conclusion of a use disorder or  11 addiction, right?  12 MR. BADALA: Objection to form.  13 Outside the scope.  14 A. Yeah. That's a medical diagnosis  15 again and I don't think the county would express  16 anything about the appropriateness of  17 misclassifying that.  18 Q. So the county has never -- well, the  19 county has never used its medical examiner data  20 or any other data set that it creates and  21 assigned classification of a use disorder or an  22 addiction based on looking at that data set,  23 correct? That's nothing the county has ever  24 done before?  25 MR. BADALA: Objection to form.</p>

<p style="text-align: right;">Page 318</p> <p>1 A. The medical examiner data would not 2 arrive at those diagnoses. The alcohol, drug 3 addiction and mental health services of the 4 county would arrive at diagnoses like that. The 5 hospital could arrive at diagnoses like that. 6 Does the county itself, you know, oversee that 7 diagnosis? No. 8 Q. You agree that all use -- substance 9 use disorders can be treated, correct? 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. That's a question outside my area of 13 expertise. 14 Q. So you do not know whether the 15 county is able to treat substance use disorders 16 for any substance they might classify? 17 MR. BADALA: Objection to form. 18 Outside the scope. 19 A. As I understood your question, all 20 substance use disorders being treatable, I don't 21 know that that's something that I could say the 22 county has an opinion on. 23 Q. What about, does the county agree 24 that, with appropriate support, all addicted 25 individuals can make a recovery?</p>	<p style="text-align: right;">Page 320</p> <p>1 Q. Are there people who have an opioid 2 use disorder from prescription opioids who do 3 not go on to use illegal narcotics? 4 MR. BADALA: Objection to form. 5 Outside the scope. 6 Which topic are we on? 7 MR. CARTER: Topic 19, "The criteria 8 used to identify individuals who overdosed on, 9 or became addicted to, prescription opioids." 10 MR. BADALA: Objection to form. 11 Outside the scope. 12 A. Now you guys made me lose the 13 question. 14 Q. Sure. 15 The question was, are there people 16 who have an opioid use disorder from 17 prescription opioids who nonetheless do not go 18 on to use illegal narcotics? 19 MR. BADALA: Same objections. 20 A. I think national data would support 21 that and probably local data, that there were 22 people prescribed who did not go on to become 23 addicted. 24 Q. With respect to topic 19, has the 25 county itself vetted or confirmed any individual</p>
<p style="text-align: right;">Page 319</p> <p>1 MR. BADALA: Objection to form. 2 Outside the scope. 3 A. I think the county would like to 4 give all those addicted individuals that 5 opportunity. Whether or not they can recover 6 would be beyond really the scope of the county's 7 ability to predict that. 8 Q. Do you agree that there are a number 9 of people who take prescription opioids and do 10 not develop an opioid use disorder? 11 MR. BADALA: Objection to form. 12 Outside the scope. 13 A. Again, without having a definition 14 of an opioid use disorder, I could only say that 15 the long-term use of opioids would be expected 16 over time to create dependence on them and 17 physical withdrawal symptoms when they were 18 removed. Whether that moves into addiction or 19 not, I couldn't really say. 20 Q. Do you agree there are a number of 21 people who take prescription opioids and never 22 go on to break the law? 23 MR. BADALA: Objection to form. 24 Outside the scope. 25 A. I would sure hope so.</p>	<p style="text-align: right;">Page 321</p> <p>1 diagnosis of an opioid use disorder? 2 A. That information was submitted to 3 the experts for their interpretation. The 4 county did not independently vet those experts. 5 They were referred to our attorneys and they 6 consulted with the experts. 7 Q. In connection with compiling the 8 individuals identified on Exhibit A, did the 9 county conduct any interviews of those 10 individuals? 11 A. We identified claims data with the 12 criteria that I've mentioned, and that was 13 submitted through to our attorneys, and then 14 they conferred with experts and responded to the 15 interrogatories. To my knowledge, the county 16 did not conduct independent interviews after 17 that referral. 18 Q. After that information was referred 19 to the attorneys and the experts, do you know if 20 the attorneys or the experts interviewed the 21 individuals listed on Exhibit 2, sub-Exhibit A? 22 It's the oversized printout. 23 A. It's the big one, right? 24 Q. Yes. 25 MR. BADALA: And I would just</p>



<p style="text-align: right;">Page 322</p> <p>1 instruct you, if you learned about any 2 conversations through the attorney, not to 3 disclose those. 4 Q. So it's the oversized one? 5 A. The big kahuna. 6 Q. So I'll ask a simpler question. 7 Sitting here today as the 8 representative of the county, do you know 9 whether anyone whose name appears on Exhibit A 10 has been interviewed in connection with their 11 identification on that chart? 12 A. Again, that would have been referred 13 to the attorneys in consultation with experts on 14 behalf of the county. To the best of my 15 knowledge, there was no follow-up interviews 16 conducted to the experts' opinions. 17 Q. To the extent the DSM-5 definition 18 of an opioid use disorder was employed, do you 19 know, for the individuals on Exhibit A, 20 whether -- what severity of an opioid use 21 disorder they were found to have had? 22 A. To the extent that we're not 23 familiar with the criteria used, I wouldn't want 24 to speculate on DSM-5 criteria and whether they 25 were employed.</p>	<p style="text-align: right;">Page 324</p> <p>1 code includes that modifier, so I can't answer 2 your question. 3 Q. Do you know for any of the 4 individuals on Exhibit A what the first drug was 5 that they abused? 6 A. That may be known, but as I say, we 7 just identified the patients and referred them 8 to counsel for consultation with experts. 9 Whether they identified that in the course of 10 their investigation, I do not know if they 11 identified what initial drug they first used. 12 Q. For the individuals listed on 13 Exhibit A, can you identify any specific name of 14 a person whose first drug of abuse was a 15 prescription opioid? 16 MR. BADALA: Objection to form. 17 Outside the scope. 18 A. It's getting a little bit late. I'm 19 just getting a little fuzzy. Could you read 20 that back? 21 Q. Sure. Happy to. 22 Of the individuals listed on Exhibit 23 A, can you identify any individual for which 24 their first drug of abuse was a prescription 25 opioid?</p>
<p style="text-align: right;">Page 323</p> <p>1 Q. For everyone listed on Exhibit A, do 2 you know when in time they first developed any 3 kind of substance abuse disorder? 4 A. All I can say is the patients were 5 diagnosed with a substance use disorder. The 6 timing, based on the documents I have in front 7 of me, which were provided by our attorneys and 8 experts, don't specify, to my examination of 9 them, a date when they developed the diagnosis 10 -- when they developed the disorder or were 11 diagnosed with it. They may be two different 12 dates, as I'm sure you know. 13 Q. For any of the individuals listed on 14 Exhibit A, do you know whether they are 15 currently diagnosed with an opioid use disorder 16 or whether they are in some stage of remission? 17 MR. BADALA: Objection to form. 18 A. I can speak, as the county's medical 19 examiner, that once diagnosed with an opioid use 20 disorder, my understanding is that diagnosis 21 remains, whether it's in remission or not. 22 Q. And my question is, do you know 23 whether any of them are in remission such that 24 the diagnostic code would include that modifier? 25 A. I don't know that the diagnostic</p>	<p style="text-align: right;">Page 325</p> <p>1 MR. BADALA: Objection to form. 2 Outside the scope. 3 A. The county cannot. We referred 4 these for the consultation with the experts, and 5 that may be something uncovered in their 6 consultation, but from our standpoint, we did 7 not go further than that to identify first drug 8 used or anything from the county's standpoint. 9 Q. Who on Exhibit A was arrested, if 10 anyone? 11 MR. BADALA: Objection to form. 12 Outside the scope. 13 A. I don't know who was arrested there. 14 We didn't really explore that when we made the 15 referrals. We just identified people who did 16 not have cancer, who were receiving high doses 17 of opioids, and who were diagnosed with a 18 substance use disorder, but we did not include 19 criteria for arrests. 20 Q. Who on Exhibit A doctor shopped? 21 A. Again, when the county submitted the 22 claims data, that was as far as we went in terms 23 of that investigation, and the doctor shopping 24 may have come to light with the consultation 25 with experts and review of records, but we are</p>

<p style="text-align: right;">Page 326</p> <p>1 not aware of that.</p> <p>2 Q. Who on Exhibit A pharmacy shopped?</p> <p>3 A. I'd have to say the same answer to</p> <p>4 that.</p> <p>5 Q. Do you know what any individual on</p> <p>6 Exhibit A understood about the risks of using</p> <p>7 prescription opioids?</p> <p>8 MR. BADALA: Objection to form.</p> <p>9 Outside the scope.</p> <p>10 A. I don't understand your question.</p> <p>11 Could you rephrase it?</p> <p>12 Q. Sure.</p> <p>13 For any of the individuals listed on</p> <p>14 Exhibit A do you know what any of them</p> <p>15 individually understood about the health risks</p> <p>16 associated with using prescription opioids?</p> <p>17 A. The county would not know that.</p> <p>18 Q. Okay. Do you know about any</p> <p>19 conversations that any individual on Exhibit A</p> <p>20 had with their doctor or pharmacist?</p> <p>21 MR. BADALA: Objection to form.</p> <p>22 Outside the scope.</p> <p>23 A. Again, we submitted the names, the</p> <p>24 500 names, with the criteria that I've spelled</p> <p>25 out, and beyond that, I really am not in a</p>	<p style="text-align: right;">Page 328</p> <p>1 identified as the cause of death?</p> <p>2 A. We would send prescription opioid</p> <p>3 overdose data to the Ohio Department of Health</p> <p>4 on a quarterly basis. I believe that started in</p> <p>5 2014 based on grant funding. So that database</p> <p>6 could be cross-checked with this, but as I sit</p> <p>7 here today, I don't have that information.</p> <p>8 Q. So sitting here today, you can't</p> <p>9 point me to any of these individuals on page 5,</p> <p>10 6 or 7 and tell me specifically which ones had a</p> <p>11 prescription opioid identified as their cause of</p> <p>12 death?</p> <p>13 A. No. As I say, the information is</p> <p>14 available based on what we, I believe, referred</p> <p>15 to Defendants in information that was sent to</p> <p>16 the Ohio Department of Health, but these</p> <p>17 individuals, I can't run through the list and</p> <p>18 pick out names and tell you this one died from</p> <p>19 prescription opioids. I can't -- I can't do</p> <p>20 that today.</p> <p>21 Q. To the extent individuals on Exhibit</p> <p>22 B did have prescription opioids identified in</p> <p>23 their cause of death, do you know which ones</p> <p>24 obtained those legally pursuant to a</p> <p>25 prescription?</p>
<p style="text-align: right;">Page 327</p> <p>1 position to state more for the county's</p> <p>2 involvement.</p> <p>3 Q. Sitting here today, do you know</p> <p>4 whether any individual on Exhibit A actually</p> <p>5 overdosed on an opioid?</p> <p>6 A. I do not.</p> <p>7 Q. All right. Home stretch.</p> <p>8 Exhibit B to Exhibit 2. It's the</p> <p>9 one at the very back. If you turn a couple</p> <p>10 pages in to page 5, that's where it starts with</p> <p>11 Cuyahoga instead of Summit. Are you with me?</p> <p>12 A. Yes, I am.</p> <p>13 Q. So for anyone on Exhibit B, do you</p> <p>14 know what substance was certified as their cause</p> <p>15 of death?</p> <p>16 A. The causes of death are not listed</p> <p>17 on this sheet.</p> <p>18 Q. Does the county know which of these</p> <p>19 individuals on Exhibit B had multiple substances</p> <p>20 certified as the cause of death?</p> <p>21 A. As I sit here, I can't answer that</p> <p>22 question, but that information could be</p> <p>23 obtained.</p> <p>24 Q. Does the county know which of these</p> <p>25 individuals, if any, had prescription opioids</p>	<p style="text-align: right;">Page 329</p> <p>1 A. I don't know if that would be</p> <p>2 knowable, so I don't -- I'd have to say the</p> <p>3 county would say we don't know.</p> <p>4 Q. For anyone on Exhibit B with an</p> <p>5 overdose attributable to a prescription opioid,</p> <p>6 can you tell me whether it was obtained legally</p> <p>7 or illegally?</p> <p>8 A. I thought that was the question I</p> <p>9 just answered. I'm sorry.</p> <p>10 Q. I just wanted to make sure I was on</p> <p>11 the same page with you.</p> <p>12 So do you know -- I think I asked</p> <p>13 you if you knew if it was legal, so I'm asking</p> <p>14 all together, both sides, can you tell me one</p> <p>15 way or the other whether anyone on here with a</p> <p>16 death that was attributable to a prescription</p> <p>17 opioid, whether that was obtained legally or</p> <p>18 illegally?</p> <p>19 A. I cannot tell you that. I don't</p> <p>20 know whether these prescription opioid deaths</p> <p>21 would have been legal or, as I said, whether we</p> <p>22 can actually track that through our database</p> <p>23 because of the potential legal -- obtaining</p> <p>24 something legally in another jurisdiction that</p> <p>25 we don't have access to.</p>

<p style="text-align: right;">Page 330</p> <p>1 Q. From the medical examiner's 2 perspective, there's no data or ability at the 3 medical examiner level to posthumously diagnose 4 an opioid use disorder, is there? 5 A. We would have to rely, in the course 6 of a death investigation, whether the individual 7 came to our office with that diagnosis, but in 8 terms of an anatomical examination or laboratory 9 testing, I'm not aware of anything that 10 facilitates that diagnosis. 11 Q. Has the county's medical examiner 12 ever diagnosed -- made a primary diagnosis of an 13 opioid use disorder in a case that it was 14 investigating? 15 A. We may list it as a diagnosis in our 16 investigation, but as I say, that would have 17 been uncovered in the course of a historical 18 review, not from the actual physical examination 19 of an individual. 20 Q. For the individuals listed on 21 Exhibit B, do you know which ones, if any, were 22 arrested? 23 A. Again, I don't know if that 24 information is available, but I do not know it 25 as I sit here today.</p>	<p style="text-align: right;">Page 332</p> <p>1 conclusively for every person listed on Exhibit 2 B that but for their use of prescription 3 opioids -- 4 THE WITNESS: I'm sorry. Could we 5 take a break? My daughter was supposed to be 6 picked up at 5:30 and I want to make sure my 7 wife knows I won't be doing that today. 8 MR. CARTER: Sure. Absolutely. I 9 only have three questions left, but you can take 10 a break. 11 THE WITNESS: I'll be right back. I 12 just have to call her. 13 MR. CARTER: That's fine. We'll go 14 off the record. 15 THE VIDEOGRAPHER: Off the record at 16 5:08 p.m. 17 (Short recess had.) 18 THE VIDEOGRAPHER: Back on the 19 record at 5:10 p.m. 20 BY MR. CARTER: 21 Q. Is the county prepared to say 22 conclusively for every person listed on Exhibit 23 B that but for their use of prescription 24 opioids, they would not have overdosed and died 25 when they did?</p>
<p style="text-align: right;">Page 331</p> <p>1 Q. Was anyone on Exhibit B involved in 2 doctor shopping? 3 A. I would have to go back to the 4 database. Again, information might be 5 available, but I don't honestly know that I 6 could point to a specific name on this list and 7 tell you that was a doctor shopper. 8 Q. Who on Exhibit B pharmacy shopped? 9 A. I'd have to answer the same way. 10 That information may be available but I do not 11 have it with me today in preparation for 12 testimony. 13 Q. Who on Exhibit B diverted 14 prescription opioids? 15 A. That may be a very tough question to 16 answer, actually, because if they weren't 17 caught, nobody would probably know that, so I 18 couldn't -- I don't think anybody could give you 19 an answer to that question in completion. There 20 may be records of prosecutions within the county 21 for some of these folks diverting, but I don't 22 think I would be able to say whether they would 23 be exhaustive given the surreptitious nature of 24 that activity. 25 Q. Is the county able to say</p>	<p style="text-align: right;">Page 333</p> <p>1 A. As I say -- 2 MR. BADALA: Objection to form. 3 A. As I say, these were identified with 4 criteria. Not having their causes of death in 5 front of me, I do not know what they died from. 6 We do, as a county, support and state that 7 individuals who died from opioid pain relievers, 8 in addition to heroin and fentanyl, in large 9 measure, are referable back to the opiate pain 10 reliever use in this county, but I don't know 11 the causes of death on these individuals other 12 than they overdosed, and not knowing specifics 13 on that, I just know that they have a substance 14 use disorder, but I don't know the substances 15 and I don't think I should offer an opinion 16 without that information. 17 Q. So I asked you about every person on 18 the list. Let me ask any person on the list. 19 For any person on that list is the county able 20 to tell me that but for their use of 21 prescription opioids, they would not have 22 overdosed and died when they did? 23 MR. BADALA: Objection to form. 24 A. Again, lacking their cause of death, 25 I can only point to the criteria that were used</p>

<p style="text-align: right;">Page 334</p> <p>1 to select this list, but I don't know that I 2 could specifically answer your question beyond 3 that. 4 Q. With respect to some of the 5 questions I asked you in terms of doctor 6 shopping arrests, pharmacy shopping, whether 7 they diverted, were any of those factors 8 considered in compiling the list of individuals 9 on Exhibit B? 10 A. We identified the claims, as I said, 11 for the opioids on the basis that they did not 12 have -- they were not cancer patients, they were 13 receiving high dose, which we defined as 120 14 medical morphine equivalents or higher, and that 15 they had a diagnosis of a substance use 16 disorder. Beyond that, I cannot characterize 17 them further in terms of arrests or other 18 things. 19 Q. With respect to the folks on Exhibit 20 B, who on there had a dose of over 120 MME? 21 MR. BADALA: Objection to form. 22 Outside the scope. 23 A. As I understand it, these criteria 24 were applied to the individuals on that list of 25 500 that were provided, and they met all three</p>	<p style="text-align: right;">Page 336</p> <p>1 of a specific Defendant? 2 MR. BADALA: Objection to form. 3 Outside the scope. 4 A. The opioid crisis has its genesis in 5 the prescribing practices that were facilitated 6 by the Defendants, and, to that extent, the 7 opioid deaths, in large measure, are the 8 responsibility of the actions of the Defendants. 9 That's the position of the county. 10 Q. Can you link any specific conduct to 11 any individual's death? 12 MR. BADALA: Objection to form. 13 Outside the scope. 14 A. Any specific conduct -- 15 Q. Of the Defendants to an individual's 16 death. 17 MR. BADALA: Same objections. 18 A. The misrepresentation of the 19 addiction potential of the compounds, the large 20 distribution of drugs into the county, the 21 efforts to create formulations that were not -- 22 I shouldn't say not tamper resistant. The 23 efforts to create guidelines for prescribing and 24 lobbying efforts around those. A lot of -- I 25 can't think of everything necessarily in one</p>
<p style="text-align: right;">Page 335</p> <p>1 of these criteria. 2 Q. So you believe everyone on Exhibit B 3 met all three of those criteria? 4 A. I am not familiar enough with 5 Exhibit B, but if they are taken from the claims 6 data, then they would have met those three 7 criteria. 8 Q. Does Exhibit B include all 9 prescription-related opioid deaths that the 10 county has experienced during the time frame or 11 is it some subset? 12 A. It's got to be a subset. There just 13 aren't enough names on there for all the opioid 14 deaths that we've had. 15 Q. My question was prescription opioid 16 related, so would you give the same answer to 17 that? So does Exhibit B contain all 18 prescription opioid deaths that the county has 19 experienced? 20 A. Give me a second to think on that. 21 That would be impossible given the 22 number here. There's more prescription opioid 23 deaths in the county than these names here. 24 Q. Can you attribute any Cuyahoga 25 County resident's death to the specific conduct</p>	<p style="text-align: right;">Page 337</p> <p>1 swoop, but the actions of the Defendants are -- 2 in the counties have been responsible for the 3 deaths -- the creation of the opioid crisis and 4 the deaths that we're seeing. 5 Q. Which individual on Exhibit B died 6 as a result of a misrepresentation of the 7 addictive potential of the compounds? 8 MR. BADALA: Objection to form. 9 Outside the scope. 10 A. I think again I have to say that 11 with regard to Exhibit B, I do not have causes 12 of death as to substances and I wouldn't want to 13 hazard a guess as to what information would be 14 relevant to your question. 15 Q. Which individual on Exhibit B died 16 as a result of the large distribution of drugs 17 into the county? 18 MR. BADALA: Objection to form. 19 Outside the scope. 20 A. To point to a specific one, I could 21 not do. 22 Q. Which individual on Exhibit B died 23 as a result of efforts to create guidelines for 24 prescribing and/or lobbying efforts around 25 those?</p>

<p style="text-align: right;">Page 338</p> <p>1 MR. BADALA: Objection to form.</p> <p>2 Outside the scope.</p> <p>3 A. I'd have to say, again, I can't</p> <p>4 point to specific ones. I don't know their</p> <p>5 causes of death. And not knowing that, I can't</p> <p>6 go further on characterizing them.</p> <p>7 Q. With respect to the</p> <p>8 misrepresentation of the addictive potential of</p> <p>9 the compounds, the large distribution into the</p> <p>10 county, and the lobbying efforts, which specific</p> <p>11 Defendants engaged in that conduct that you</p> <p>12 believe was causal of any death?</p> <p>13 MR. BADALA: Objection to form.</p> <p>14 Outside the scope.</p> <p>15 A. Which topic are we on now?</p> <p>16 Q. On topic 19 and 34 and 2 and 18 and</p> <p>17 probably others.</p> <p>18 MR. BADALA: So is it your position</p> <p>19 that this applies to all those topics, this</p> <p>20 question?</p> <p>21 MR. CARTER: Yes. The ones that I</p> <p>22 just mentioned, yes.</p> <p>23 A. And one more time. I'm sorry.</p> <p>24 Q. So which Defendants, sitting here</p> <p>25 today, does the county identify as engaging in</p>	<p style="text-align: right;">Page 340</p> <p>1 Outside the scope.</p> <p>2 Which topic are we on?</p> <p>3 MR. CARTER: Topic 34.</p> <p>4 MR. BADALA: Objection to form.</p> <p>5 Outside the scope.</p> <p>6 A. So if I understand your question,</p> <p>7 you're asking me to identify which of the</p> <p>8 Defendants we believe caused or contributed to</p> <p>9 the opioid crisis in our geographic area.</p> <p>10 Q. No. I'm asking the flip of that.</p> <p>11 My question is, can you identify any Defendant</p> <p>12 who could have prevented Cuyahoga County's</p> <p>13 opioid crisis?</p> <p>14 MR. BADALA: Objection to form.</p> <p>15 Outside the scope.</p> <p>16 A. Yes. All of them.</p> <p>17 Q. And how could they have prevented</p> <p>18 it?</p> <p>19 MR. BADALA: Same objections.</p> <p>20 A. By not creating that culture of</p> <p>21 undertreatment of pain, by not encouraging the</p> <p>22 overprescribing of pain medications, by not</p> <p>23 misrepresenting the addictive potential of those</p> <p>24 medications. The things that have been spelled</p> <p>25 out before I think in terms of the actions of</p>
<p style="text-align: right;">Page 339</p> <p>1 the specific conduct that you just mentioned</p> <p>2 related to the death of anyone on Exhibit B?</p> <p>3 MR. BADALA: Objection to form.</p> <p>4 Outside the scope.</p> <p>5 A. The county identifies all of the</p> <p>6 Defendants. That was why we filed the lawsuit.</p> <p>7 And the specifics of these individuals I regret</p> <p>8 I don't have, but the county's position is that</p> <p>9 all of the Defendants are ultimately responsible</p> <p>10 for this creation of this drug-addicted</p> <p>11 population.</p> <p>12 Q. So for any individual on Exhibit B,</p> <p>13 can you link their death to any specific</p> <p>14 Defendant?</p> <p>15 MR. BADALA: Objection to form.</p> <p>16 Outside the scope. Asked and answered.</p> <p>17 A. As I understand the individuals on</p> <p>18 B, the county identified them and referred them</p> <p>19 for -- to our attorneys for expert analysis.</p> <p>20 The county doesn't have a position on what you</p> <p>21 had asked me.</p> <p>22 Q. And then my last question, can you</p> <p>23 identify any Defendant named in the lawsuit who</p> <p>24 could have prevented the county's opioid crisis?</p> <p>25 MR. BADALA: Objection to form.</p>	<p style="text-align: right;">Page 341</p> <p>1 the Defendants that contributed to the opioid</p> <p>2 crisis, with pain relievers initially and</p> <p>3 subsequently transitioning into the opioid</p> <p>4 crisis as we saw it with heroin and fentanyl and</p> <p>5 the analogs of fentanyl.</p> <p>6 Q. With respect to the mortality data</p> <p>7 that you have, what was the mortality</p> <p>8 attributable to illegal drugs for 2017 --</p> <p>9 MR. BADALA: Objection to form.</p> <p>10 Q. -- or whatever year you have in</p> <p>11 front of you? In Exhibit 11, what's the last</p> <p>12 year? That's the yellow one that's at the top.</p> <p>13 A. The last year on here is 2014.</p> <p>14 Q. Okay. Then let's do it without a</p> <p>15 specific number. What could any Defendant have</p> <p>16 done to prevent the deaths in 2017 in Cuyahoga</p> <p>17 County that your office determined were caused</p> <p>18 by heroin, illicit fentanyl, fentanyl analogs,</p> <p>19 carfentanil or cocaine?</p> <p>20 MR. BADALA: Objection to form.</p> <p>21 You said '14 and then you said '17.</p> <p>22 MR. CARTER: I did. So this</p> <p>23 question is 2017. I was trying to give him a</p> <p>24 reference point to a number. I was trying to</p> <p>25 wrap up since we're at the end of the day. So</p>




<p style="text-align: right;">Page 342</p> <p>1 I'll ask it again to be clear.  2 Q. I understand you don't have a  3 specific number of deaths in front of you, but  4 there were deaths in 2017 in Cuyahoga County  5 that were attributable to heroin, illicit  6 fentanyl, carfentanyl, fentanyl analogs and  7 cocaine. Each of those substances represented  8 at least one death in 2017, correct?  9 A. Yes. Illicit fentanyl, I'd sort of  10 just say that our testing can't distinguish  11 diverted fentanyl from illicitly manufactured  12 fentanyl, but our general impression is that  13 most of those deaths were attributable to  14 illicitly manufactured fentanyl.  15 Q. So whatever the number was  16 attributable to that combination of illegal  17 drugs that I just mentioned, what -- can you  18 identify any Defendant who could have prevented  19 those deaths in 2017?  20 MR. BADALA: Objection to form.  21 Beyond the scope.  22 A. Again, all the Defendants could have  23 prevented that situation.  24 Q. So all the Defendants could have  25 prevented every single illicit drug death from</p>	<p style="text-align: right;">Page 344</p> <p>1 record. I think we're done, but just a quick  2 caucus.  3 THE VIDEOGRAPHER: Off the record at  4 5:22 p.m.  5 (Recess had.)  6 THE VIDEOGRAPHER: Back on the  7 record at 5:35 p.m.  8 EXAMINATION OF THOMAS GILSON, M.D.  9 BY MS. ROITMAN:  10 Q. Good evening, Mr. Gilson, or  11 Dr. Gilson. I'm Sara Roitman from Purdue. I  12 introduced myself to you earlier. I just have a  13 few more questions for you.  14 MS. ROITMAN: Before we begin, I  15 think we have a housekeeping administrative  16 point. Exhibits 4, 5 and 6 were premarked but  17 they were not introduced into the record. I  18 think that's the consensus of everyone for  19 clarity sake. Thank you.  20 Q. Dr. Gilson, I'd like to talk about  21 topic 4, and topic 4 is -- includes the criteria  22 that Plaintiffs used to identify the information  23 required by the interrogatories at issue in  24 discovery ruling number 5, and for your  25 reference, those interrogatories at issue, the</p>
<p style="text-align: right;">Page 343</p> <p>1 those substances I just mentioned in 2017?  2 A. I don't think it would be the  3 county's position on every one, but most of  4 them, yes.  5 Q. Can you identify a percentage?  6 A. I'd have to look closer at that. I  7 don't know.  8 MR. CARTER: Okay. And then just as  9 an administrative clean-up, I'd like to mark the  10 binder that the witness brought with him today  11 as whatever the next number is. I think it's  12 14.  13 MS. RANJAN: That one has the notes  14 on it, doesn't it?  15 THE WITNESS: This one has my notes.  16 MR. BADALA: You can mark that one.  17 MR. CARTER: We'll handle the  18 logistics of --  19 MR. BADALA: That's okay.  20 - - - - -  21 (Thereupon, Gilson Deposition  22 Exhibit 14, Binder, was marked for  23 purposes of identification.)  24 - - - - -  25 MR. CARTER: If we could go off the</p>	<p style="text-align: right;">Page 345</p> <p>1 ones I'm going to talk about, are manufacturers'  2 interrogatories 6, 7 and 10, specifically, the  3 Plaintiffs' response to number 6, which was  4 marked as Exhibit 3 today. And it's -- to  5 orient you, it's the December 31st, 2018  6 response to interrogatory 6.  7 A. I have Exhibit 3.  8 Q. So, Dr. Gilson, to orient you, the  9 exhibit that we have been referring to today as  10 Exhibit 2, I believe, that giant Excel  11 spreadsheet --  12 A. This one, yes.  13 Q. -- that was -- Plaintiffs referred  14 to that in their response to interrogatory 6  15 when they were identifying 500 alleged  16 prescriptions that were written in reliance of  17 Manufacturer Defendants' alleged misstatement.  18 I appreciate that you have testified numerous  19 times today that you didn't see Exhibit 2 or  20 that spreadsheet prior to today, and so I'm  21 just --  22 A. I'm going to say I don't remember  23 seeing them.  24 MR. BADALA: Object to that  25 characterization.</p>

<p style="text-align: right;">Page 346</p> <p>1 Q. Fair enough.</p> <p>2 What I'm going to ask you really is</p> <p>3 just strictly the criteria that the county used</p> <p>4 when responding to interrogatory number 6.</p> <p>5 So did any of the criteria that the</p> <p>6 county used in responding to interrogatory 6</p> <p>7 include determining whether a doctor on that</p> <p>8 Excel spreadsheet was ever visited by a sales</p> <p>9 representative?</p> <p>10 MR. BADALA: She's talking about</p> <p>11 Exhibit 3.</p> <p>12 A. This would be page -- I remember the</p> <p>13 list was there.</p> <p>14 Q. I can tell you it's not -- it is --</p> <p>15 what I'm trying to figure out is the criteria</p> <p>16 that was used for identifying the prescriptions</p> <p>17 listed on that giant Excel spreadsheet, the 500</p> <p>18 prescriptions.</p> <p>19 A. I just want to refresh my memory.</p> <p>20 So it says in Exhibit 2, on the page with the</p> <p>21 doctors' names, that the "Bellwether Plaintiffs</p> <p>22 further contend that, by misrepresenting the</p> <p>23 risks, benefits, and superiority of opioids,</p> <p>24 particularly for use long-term and at high</p> <p>25 doses, including, but not limited to, through</p>	<p style="text-align: right;">Page 348</p> <p>1 they were not cancer patients, they were high</p> <p>2 dose, that is greater than 120 morphine --</p> <p>3 medical morphine equivalents or higher, and</p> <p>4 patients who were diagnosed with a substance</p> <p>5 abuse disorder.</p> <p>6 Q. And so would the answer to my</p> <p>7 question be no?</p> <p>8 A. But I think they were saying -- at</p> <p>9 least the prescriptions identified in Exhibit A</p> <p>10 was unauthorized, medically unnecessary,</p> <p>11 ineffective, or harmful, and then further down</p> <p>12 on that page they identify that the</p> <p>13 misrepresentation was unnecessary and harmful,</p> <p>14 do not -- but that the sales visits are included</p> <p>15 in some of the misrepresentations.</p> <p>16 Q. Doctor, I'm going to move to strike.</p> <p>17 I need you to answer my question.</p> <p>18 A. I'm trying to, ma'am. I'm very</p> <p>19 sorry.</p> <p>20 Q. So if you can focus on what I'm</p> <p>21 asking.</p> <p>22 Did the criteria that Plaintiffs</p> <p>23 used to come up with the prescriptions on that</p> <p>24 list, did it include determining whether or not</p> <p>25 any of those doctors had been visited by a sales</p>
<p style="text-align: right;">Page 347</p> <p>1 sales visits, continuing medical education and</p> <p>2 speaker programs, publications and websites, and</p> <p>3 treatment guidelines, Manufacturer Defendants</p> <p>4 deprived prescribers and patients of the ability</p> <p>5 to make informed choices about whether, when and</p> <p>6 which opioids to prescribe and use, for how</p> <p>7 long, and at what doses." So it mentions sales</p> <p>8 visits in that. I don't know specifically, of</p> <p>9 the doctors who were listed, which ones had a</p> <p>10 sales visit.</p> <p>11 Q. Doctor, I don't want to interrupt</p> <p>12 you, but I do want you to answer my question.</p> <p>13 It's getting late, and I think all of us want to</p> <p>14 get out of here and get you out of here. That</p> <p>15 wasn't my question. My question was, in coming</p> <p>16 up with the prescriptions that are identified in</p> <p>17 Exhibit 2, that big Excel spreadsheet, which was</p> <p>18 provided in response to interrogatory 6, did the</p> <p>19 criteria that Plaintiffs used to come up with</p> <p>20 the prescriptions on that list include any</p> <p>21 criteria to determine whether any of the</p> <p>22 prescribers on that list had ever been visited</p> <p>23 by a sales representative?</p> <p>24 A. The criteria that I have harkened</p> <p>25 back to that were used to create the list where</p>	<p style="text-align: right;">Page 349</p> <p>1 representative?</p> <p>2 MR. BADALA: Objection to form.</p> <p>3 Asked --</p> <p>4 Q. The answer should be yes or no.</p> <p>5 A. I've tried to answer it as best I</p> <p>6 can from the response from the interrogatory.</p> <p>7 Whether that was a separate criteria, that's not</p> <p>8 my understanding.</p> <p>9 Q. For the record, you're not -- the</p> <p>10 response that you're reading from there is not</p> <p>11 in response to interrogatory 6. It's in</p> <p>12 response to interrogatory 7 or interrogatory 10.</p> <p>13 My question is focused on interrogatory 6. If</p> <p>14 you're not going to answer my questions, I am</p> <p>15 going to have to request more time. I assure</p> <p>16 you we are all trying to get out of here, so --</p> <p>17 was there any separate criteria that was used</p> <p>18 besides the three criteria that you've</p> <p>19 identified, non-cancer, high dose opioids in</p> <p>20 your words, and patients identified with an</p> <p>21 opioid use disorder? Were any other criteria</p> <p>22 used for coming up with the prescriptions on</p> <p>23 Exhibit A?</p> <p>24 A. That's how we identified the claims.</p> <p>25 Q. So the rest of my questions should</p>

<p style="text-align: right;">Page 350</p> <p>1 be fairly simple for you to answer. Would any 2 of the criteria include whether any of those 3 doctors were visited by a sales representative? 4 A. These criteria do not include that. 5 Q. Do any of the criteria include being 6 visited by one of the Manufacturer Defendants' 7 sales representatives? 8 A. Not the criteria that were used. 9 Q. Did any of the criteria used pertain 10 to whether or not any of the physicians on that 11 list ever attended a continuing medical 12 education program that was sponsored by any of 13 the Manufacturer Defendants? 14 A. Not listed in my list of criteria. 15 Q. Did the criteria include ever -- 16 whether any of those doctors ever had attended a 17 continuing medical -- 18 A. I think I finally understand where 19 we're differing. These are -- 20 Q. Please let me finish my question. 21 A. Oh, sure. Absolutely. 22 Q. Did the criteria that you used 23 include if they ever attended any sort of 24 continuing medical education program at all 25 relating to opioids?</p>	<p style="text-align: right;">Page 352</p> <p>1 can put 2 to the side and he can look at 3. I 2 think that's the confusion. 3 MS. ROITMAN: The confusion is 4 Exhibit 2, which is that big list of -- that 5 huge Excel spreadsheet, that is what I'm 6 referring to. Plaintiffs -- you referred to 7 that big list when they were responding to 8 interrogatory 6. 9 MR. BADALA: So that's where I think 10 the confusion is. He is now looking at that. 11 If he can look at Exhibit 3, then I think that's 12 more helpful. 13 Q. So we can call it 2A if you want. I 14 think part of the problem is -- 15 MR. BADALA: I think that's going to 16 mess up the record a little bit. 17 A. -- is you have not looked at these 18 responses before today and you're not familiar 19 with them. 20 MR. BADALA: I'm going to object to 21 that characterization. That's not been his 22 testimony. 23 MS. ROITMAN: You can object all you 24 want. 25 Q. Let's go back to my questions.</p>
<p style="text-align: right;">Page 351</p> <p>1 A. No. I think what I'm saying, if I 2 could answer where I think we might be on 3 different purposes, is I think that things I was 4 describing were characterizations of the 5 prescriptions, but the claims that we submitted 6 to attorneys were based on these criteria. 7 Q. Again -- and this may be an issue 8 that you just have not read that response before 9 today and why it has been somewhat frustrating 10 to get accurate kind of answers to our questions 11 on this -- what are you referring to there isn't 12 the response to interrogatory number 6 that I'm 13 asking about. It's in response to a completely 14 different interrogatory, 7 and 10. So if you 15 could just stay with me and answer my questions, 16 I think we would all be grateful for it. 17 MR. BADALA: I think part of the 18 problem is you're telling him to look at 2 when 19 you're talking about 3. 20 MS. ROITMAN: No. For the record, 21 he's, on his own volition, reading a different 22 exhibit that we're not talking about. 23 MR. BADALA: I get it, but you keep 24 saying back to the prescriptions in Exhibit 2. 25 Exhibit 3 is what you're talking about. So we</p>	<p style="text-align: right;">Page 353</p> <p>1 A. Sure. 2 Q. Did any of the criteria that were 3 used to come up with the prescriptions that were 4 identified in that big Excel spreadsheet include 5 trying to figure out if any of the doctors on 6 there had had any specific contact with one of 7 the Manufacturing Defendants? 8 A. In coming up with a list, no. 9 Q. Any criteria -- was there any 10 criteria that was used for determining why any 11 of the doctors on that big exhibit, Excel 12 spreadsheet, prescribed the opioids to the 13 patients listed there? 14 A. I think some of them were the ones 15 who were prosecuted, so they were identified by 16 that. 17 Q. So is that a different criteria that 18 you're saying you were using? 19 MR. BADALA: Objection to form. 20 Asked and answered. 21 A. I am not following your question. 22 I'm sorry. 23 Q. I'm trying to -- you've identified 24 the three criteria that were used. I'm trying 25 to figure out if there are any other criteria</p>

<p style="text-align: right;">Page 354</p> <p>1 that were used to identify the people on Exhibit</p> <p>2 2A.</p> <p>3 A. Oh, I thought you were talking about</p> <p>4 the doctors. No. The claims for the opioids</p> <p>5 are the three criteria that I mentioned.</p> <p>6 MS. ROITMAN: Thank you. I have no</p> <p>7 further questions.</p> <p>8 THE WITNESS: Thanks.</p> <p>9 MR. BADALA: Anyone else in the room</p> <p>10 have any questions? Anyone on the phone have</p> <p>11 any questions?</p> <p>12 I just have a few questions.</p> <p>13 MS. ROITMAN: Can we just go off the</p> <p>14 record quickly?</p> <p>15 THE VIDEOGRAPHER: Off the record at</p> <p>16 5:45 p.m.</p> <p>17 (Recess had.)</p> <p>18 THE VIDEOGRAPHER: Back on the</p> <p>19 record at 5:47 p.m.</p> <p>20 EXAMINATION OF THOMAS GILSON, M.D.</p> <p>21 BY MR. BADALA:</p> <p>22 Q. Dr. Gilson, I just have a couple of</p> <p>23 follow-up questions from your deposition today.</p> <p>24 You mentioned earlier that you took</p> <p>25 some notes during your conversation with Tamara</p>	<p style="text-align: right;">Page 356</p> <p>1</p> <p>2 (Deposition concluded at 5:48 p.m.)</p> <p>3 -----</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 355</p> <p>1 Chapman. Do you recall that?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Can you describe those notes for me?</p> <p>4 A. I was having a phone conversation.</p> <p>5 I wrote them on a piece of paper no bigger than</p> <p>6 two-by-two inches, and they -- the points I</p> <p>7 wrote down were that they were seeing an</p> <p>8 increase in the number of custody cases at DCSF,</p> <p>9 which is where Ms. Chapman is employed, an</p> <p>10 increase in the number of positive toxicology</p> <p>11 bursts, and that she indicated that it was her</p> <p>12 impression that was related to opioids.</p> <p>13 MR. BADALA: I have no further</p> <p>14 questions.</p> <p>15 MR. CARTER: Nothing further.</p> <p>16 MR. BORANIAN: Nothing for me.</p> <p>17 MR. BADALA: Anyone on the phone?</p> <p>18 And I just want to note one thing</p> <p>19 for the record. Plaintiffs did serve amended</p> <p>20 responses and objections to the 30(b)(6)</p> <p>21 deposition. Those weren't included, but by</p> <p>22 reference, we refer to our responses and</p> <p>23 objections.</p> <p>24 THE VIDEOGRAPHER: Off the record at</p> <p>25 5:48 p.m.</p>	<p style="text-align: right;">Page 357</p> <p>1 Whereupon, counsel was requested to give</p> <p>2 instruction regarding the witness' review of</p> <p>3 the transcript pursuant to the Civil Rules.</p> <p>4</p> <p>5 SIGNATURE:</p> <p>6 Transcript review was requested pursuant to</p> <p>7 the applicable Rules of Civil Procedure.</p> <p>8</p> <p>9 TRANSCRIPT DELIVERY:</p> <p>10 Counsel was requested to give instruction</p> <p>11 regarding delivery date of transcript.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 358</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 The State of Ohio, )</p> <p>3 ) SS:</p> <p>4 County of Cuyahoga. )</p> <p>5</p> <p>6 I, Renee L. Pellegrino, a Notary Public</p> <p>7 within and for the State of Ohio, duly</p> <p>8 commissioned and qualified, do hereby certify</p> <p>9 that the within named witness, THOMAS GILSON, M.D.,</p> <p>10 was by me first duly sworn to testify the truth, the</p> <p>11 whole truth and nothing but the truth in the cause</p> <p>12 aforesaid; that the testimony then given by the</p> <p>13 above referenced witness was by me reduced to</p> <p>14 stenotypy in the presence of said witness;</p> <p>15 afterwards transcribed, and that the foregoing is a</p> <p>16 true and correct transcription of the testimony so</p> <p>17 given by the above referenced witness.</p> <p>18 I do further certify that this</p> <p>19 deposition was taken at the time and place in the</p> <p>20 foregoing caption specified and was completed</p> <p>21 without adjournment.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 360</p> <p>1 Veritext Legal Solutions</p> <p>2 1100 Superior Ave</p> <p>3 Suite 1820</p> <p>4 Cleveland, Ohio 44114</p> <p>5 Phone: 216-523-1313</p> <p>6 January 15, 2019</p> <p>7 To: SALVATORE BADALA</p> <p>8 Case Name: In Re: National Prescription Opiate Litigation v.</p> <p>9 Veritext Reference Number: 3191875</p> <p>10 Witness: Thomas Gilson, M.D. Deposition Date: 1/14/2019</p> <p>11 Dear Sir/Madam:</p> <p>12 The deposition transcript taken in the above-referenced</p> <p>13 matter, with the reading and signing having not been</p> <p>14 expressly waived, has been completed and is available</p> <p>15 for review and signature. Please call our office to</p> <p>16 make arrangements for a convenient location to</p> <p>17 accomplish this or if you prefer a certified transcript</p> <p>18 can be purchased.</p> <p>19 If the errata is not returned within thirty days of your</p> <p>20 receipt of this letter, the reading and signing will be</p> <p>21 deemed waived.</p> <p>22</p> <p>23 Sincerely,</p> <p>24 Production Department</p> <p>25 NO NOTARY REQUIRED IN CA</p>
<p style="text-align: right;">Page 359</p> <p>1 I do further certify that I am not a</p> <p>2 relative, counsel or attorney for either party,</p> <p>3 or otherwise interested in the event of this</p> <p>4 action.</p> <p>5 IN WITNESS WHEREOF, I have hereunto set</p> <p>6 my hand and affixed my seal of office at</p> <p>7 Cleveland, Ohio, on this 15th day of January, 2019.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 </p> <p>13 Renee L. Pellegrino, Notary Public</p> <p>14 within and for the State of Ohio</p> <p>15</p> <p>16 My commission expires October 12, 2020.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 361</p> <p>1 DEPOSITION REVIEW</p> <p>2 CERTIFICATION OF WITNESS</p> <p>3 ASSIGNMENT REFERENCE NO: 3191875</p> <p>4 CASE NAME: In Re: National Prescription Opiate Litigation v.</p> <p>5 DATE OF DEPOSITION: 1/14/2019</p> <p>6 WITNESS' NAME: Thomas Gilson, M.D.</p> <p>7 In accordance with the Rules of Civil</p> <p>8 Procedure, I have read the entire transcript of</p> <p>9 my testimony or it has been read to me.</p> <p>10 I have made no changes to the testimony</p> <p>11 as transcribed by the court reporter.</p> <p>12</p> <p>13 Date _____ Thomas Gilson, M.D.</p> <p>14 Sworn to and subscribed before me, a</p> <p>15 Notary Public in and for the State and County,</p> <p>16 the referenced witness did personally appear</p> <p>17 and acknowledge that:</p> <p>18 They have read the transcript;</p> <p>19 They signed the foregoing Sworn</p> <p>20 Statement; and</p> <p>21 Their execution of this Statement is of</p> <p>22 their free act and deed.</p> <p>23</p> <p>24 I have affixed my name and official seal</p> <p>25 this _____ day of _____, 20____.</p> <p>_____ Notary Public</p> <p>_____ Commission Expiration Date</p>



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1 DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

2

3 ASSIGNMENT REFERENCE NO: 3191875  
CASE NAME: In Re: National Prescription Opiate Litigation v.  
DATE OF DEPOSITION: 1/14/2019

4 WITNESS' NAME: Thomas Gilson, M.D.

5 In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
6 my testimony or it has been read to me.

7 I have listed my changes on the attached  
Errata Sheet, listing page and line numbers as  
8 well as the reason(s) for the change(s).

9 I request that these changes be entered  
as part of the record of my testimony.

10

11 I have executed the Errata Sheet, as well  
as this Certificate, and request and authorize  
that both be appended to the transcript of my  
12 testimony and be incorporated therein.

13 \_\_\_\_\_  
Date Thomas Gilson, M.D.

14

15 Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
16 and acknowledge that:

17 They have read the transcript;  
They have listed all of their corrections  
18 in the appended Errata Sheet;  
They signed the foregoing Sworn  
19 Statement; and  
Their execution of this Statement is of  
20 their free act and deed.

21 I have affixed my name and official seal  
22 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

23 \_\_\_\_\_  
Notary Public

24

25 \_\_\_\_\_  
Commission Expiration Date

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1 ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST

2 ASSIGNMENT NO: 1/14/2019

3 PAGE/LINE(S) / CHANGE /REASON

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5 \_\_\_\_\_

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19 \_\_\_\_\_

20 \_\_\_\_\_  
Date Thomas Gilson, M.D.

21 SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_

22 DAY OF \_\_\_\_\_, 20\_\_\_\_.

23 \_\_\_\_\_  
Notary Public

24

25 \_\_\_\_\_  
Commission Expiration Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF SEPTEMBER 1, 2016. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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